The Solicitors' Journal
and Weekly Reporter.
(*ESTABLISHED IN 1857.*)
LONDON, JUNE 30, 1923.
ANNUAL SUBSCRIPTION, PAYABLE IN ADVANCE.
£2 12s.; by Post, £2 14s.; Foreign, £2 16s.
HALF-YEARLY AND QUARTERLY SUBSCRIPTIONS IN PROPORTION.

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Current Topics.

The Provincial Meeting.

THE ARRANGEMENTS for the Provincial Meeting of the Law Society at Plymouth on 1st to 4th October will be found stated elsewhere. The hospitality of the Plymouth Law Society will enable members who attend the meeting to combine the discussion of matters of professional interest with a visit to one of the most attractive parts of the country, and we anticipate that the meeting will be very enjoyable and successful.

The Council's Report.

THE ANNUAL REPORT of the Council of the Law Society, the greater part of which we reproduce in these columns, shows that there has been abundant matter to engage the attention of the Council during the past year. Foremost, perhaps, we may put the arrangements that have been made for enabling articled students to comply with the requirements of the Solicitors Act, 1922, as to attendance at a law school. The question of altering the basis of solicitors' remuneration, so as to dispense as far as practicable with item bills, and introduce lump sum charges, has not arrived at a definite solution, nor does the progress towards solution seem very rapid. The Law of Property Act, 1922, has been passed, but is in a state of suspended animation, waiting to be replaced by consolidating statutes which also are slow in appearing. And generally the record is rather of things still under discussion, or the subject of pending legislation, than of things done.

The Supreme Court of the United States.

WE PRINT elsewhere the first of two addresses on the Supreme Court of the United States, which Mr. JAMES M. BECK is delivering at Gray's Inn. We hope to notice them more at length when the second has been delivered, but we are glad to call attention to this interesting account of a court which has a

position of special influence and importance among the Supreme Courts of the world. The greatest court of all, the Permanent Court of International Justice, is still at the beginning of its history. How it will develop, and how it will gain the influence and authority which the peace of the world demands for it, is the question that now lies before civilized States. But it can scarcely have a real beginning until the great nations still outside the Covenant of the League become willing and fully accepted members of it. The nearest analogy to the United States Supreme Court is our own Judicial Committee of the Privy Council. But while it exercises a jurisdiction which in extent and variety makes the comparison natural, yet the constitutional principles on which it is founded, and its influence on other departments of Government, are essentially different. But if the Supreme Court is not the exact precedent which other States can follow, it is an institution of continual and absorbing interest to all lawyers who study the growth and influence of law.

Dr. Murray Butler and American Statesmen and Lawyers.

In addition to Mr. Beck's addresses, a very interesting series of lectures on the Constitutional and Legal History of the United States has been delivered at Cambridge, Manchester and elsewhere by Dr. N. Murray Butler, President of Columbia University, New York. The lectures are part of a series arranged for by the Watson Chair of American History, Literature and Institutions. We presume that the lectures will be published, but somewhat lengthy reports have appeared in *The Times*, and no doubt in other papers. We may instance the second lecture on "Father of his Country, George Washington," delivered at Cambridge; the third on "The Master Builders of the Nation," at Cardiff; and the fifth on "Welders of the Nation in Law and Public Opinion: John Marshall, Daniel Webster and Andrew Jackson," at Manchester. Dr. Murray Butler explained how myths had grown up about the childhood and youth of Washington, largely the work of the local clergyman, an enthusiastic admirer. But the value of his work to the American nation was real enough, and the general oration delivered over him before Congress, rightly described him as "First in war, first in peace, and first in the hearts of his countrymen." "Master Builders" of the nation were Alexander Hamilton and James Madison, and in Dr. Murray Butler's verdict, Alexander Hamilton stood as the greatest and most commanding intellect that the New World had produced. And if James Madison did not rise to the same height of genius, he was patient and industrious, and his record of the debates in the Convention which produced the "Constitution" is the primary and original source of information as to what took place behind its closed doors. Not until 1840, four years after his death, and more than fifty years after the adoption of the Constitution, were the notes published. The fifth lecture dealt with John Marshall, "one of the most attractive as well as one of the most powerful personalities in American history." To him chiefly the authority of the United States Supreme Court is due, and he is always an interesting figure to lawyers. The seventh and last lecture, given at St. Andrews on 6th June, and repeated at Leeds on 11th June, was on "Building the American Nation," and touched on the remarkable situation produced by the Eighteenth—the Prohibition—Amendment to the Constitution.

Rent Restriction and Arrears of Rent.

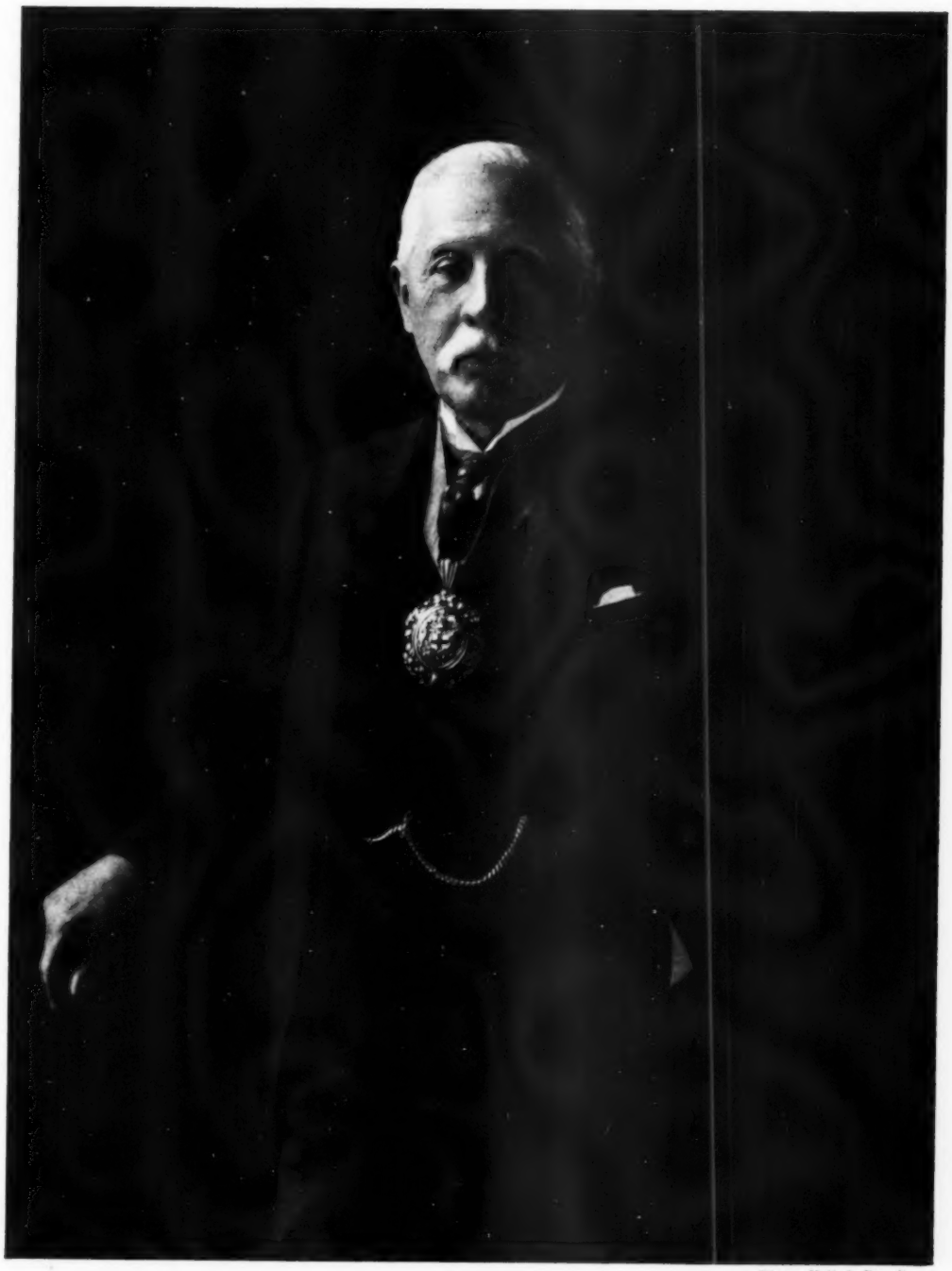
One amendment of substance has been introduced into the Rent Restriction Bill during its consideration in the Standing Committee. The Bill, as introduced, provided that no house protected by the Increase of Rent and Mortgage Interest (Restriction) Act, of 1920 should remain within the ambit of the statute after the landlord had once obtained possession. This is a most beneficial provision in general, since it enables a landlord to re-let the house unfurnished at an economic rental instead of adopting the roundabout device of a sale or a furnishing letting in order to secure the full economic value of the house. But it was pointed out that many landlords at present refrained from pressing for orders of ejectment against tenants in arrear with rent as the result of misfortune and unemployment, whereas the new proposal might give them an inducement to do so in order to obtain possession and get free of an irksome statutory interference. To remedy this possible evil, an amendment has been inserted providing that a house is not to be deemed released from the statute when the landlord has obtained an ejectment order for arrears unless the court expressly so orders. In practice, we feel some doubt as to the efficacy of this provision to effect its special object. When a landlord can recover his premises for non-payment of arrears, he will not be deterred from doing so merely because he is bound to sell or let furnished instead of re-letting unfurnished in order to escape the statute.

Infectious Disease and the Warranty of Habitability.

Mr. Justice McCardie has somewhat extended the bounds of a well-known rule of law by his very interesting decision in *Collins* v. *Hopkins*, *Times*, 21st June. It is quite every-day law that, whereas the letting of an unfurnished dwelling-house imports no warranty that it is reasonably fit for habitation, apart from express covenant, express collateral stipulation, and the special provisions of the Housing and Town Planning Acts in the case of small tenements, yet in the case of a furnished house a warranty of habitability is implied in the lease; *Smith* v. *Marrable*, 1843, 11 M. & W. 5. It is just possible, though not probable, that the warranty also applies in the case of an unfurnished house let for the express purpose of immediate occupation; the Court of Appeal left this point open in *Bunn* v. *Harrison*, 1886, 3 T.L.R., 146. We may add that in an unreported case of fifteen years ago, one of the last argued by Lord Sumner before he left the Bar for the Bench, the Court of Appeal imported the same warranty of habitability into the letting of a furnished houseboat on the ground that it was either (1) a furnished house, or (2) a ship; in the former case the usual warranty applied and in the latter the warranty of "seaworthiness," *i.e.*, that it is reasonably fit to serve the purpose of its charter party, the carriage of passengers. In *Smith* v. *Marrable*, *supra*, the house which became the subject of proceedings was found to be infected with insects, and therefore, not a "decent and confortable habitation." This doctrine was extended to the case of a house let after a child had just recovered in it from an attack of measles—a very highly infectious disease—in *Bird* v. *Lord Granville*, 1886, C. & E., 317, where Field, J., ruled that the warranty imported that the house had either been free from the recent presence of infectious disease, or had been disinfected thereafter by means of the best known disinfecting apparatus. Mr. Justice McCardie has now added to the category of insects and measles that of the *bacillus tuberculosis*. Where a house is let furnished, he has held, the warranty of habitability imports the same implications in a case of consumption as in a case of measles.

Corroboration by Silence.

It is the practice in cases stated from magisterial courts that the Bench must state, not matters of evidence or comment, but matters of fact for the opinion of the Divisional Court: *Bischop* v. *Toler*, 65 L.J. M.C. 1. The court, however, will not allow a Bench of justices to misuse this power, which makes them the final authority on all conclusions of fact, by the simple device of prefixing the words: "The following facts were proved or admitted before us" to a series of statements which in fact do not consist of facts either admitted or proved, but of conclusions from inadequate evidence: *Legge* v. *Tempest*, *Times*, 21st June. In the case quoted the female co-respondent in a divorce suit took out an affiliation summons against a third party who was not the male respondent in the divorce. There was no corroboration of her allegation, but the stipendiary made an order in her favour which the Divisional Court quashed on a case stated. Soon afterwards the divorce suit reached the stage of a decree *nisi* in favour of the wife; but the co-respondent once



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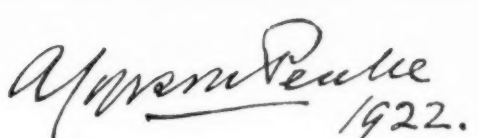

PRESIDENT OF THE LAW SOCIETY, 1922-23.

more took out a summons against the putative father. The only new evidence was that of a clergyman, who stated that the woman in the presence of himself and the alleged father persistently accused the latter of being her child's father; this he as persistently denied, but the woman obtained the last word in the dispute. The fact that the man at last relapsed into silence and no longer interjected his contradiction was apparently regarded by the magistrate as an "admission by silence," and therefore corroboration. He made an order accordingly, but on request he stated a case for the High Court in which he set out a very long catalogue of assertions made by the woman under the extraordinary heading "It was proved or admitted." The Divisional Court disapproved very strongly of this mode of setting out in a document of unparalleled prolixity and vagueness mere multitudinous charges reiterated by the complainant, when the clergyman to whom they were made had expressly concluded his evidence by saying that the defendant had persistently denied their truth, and held that silence does not become an admission of guilt when it merely consists in giving the other party to the controversy the last word in a dispute.

The Salary of a Judge.

IN A RECENT case, where expert evidence as to the salary properly payable to a variety star was under consideration, and the amount of £5,000 was suggested, a learned judge remarked that this was "only the salary of a High Court Judge." The implication, no doubt, was that either the salary of variety stars is too high or that of judges is too low, and probably the learned judge had both of these innuendoes in his mind. As regards the former, however, it is only fair to point out that the comparison is somewhat fallacious in two several respects. In the first place, the salary of a judge is fixed and regular and followed by a pension when finally he retires, the work is not very exacting, and the scale is that of late life when men in ordinary professions are ceasing to earn so much as they did in their youth; the salary of a variety artist, on the other hand, is the most precarious of all remuneration, it is earned by nerve-racking work, and it lasts for only a few years in youth. And, in the second place, the high fees of successful stage-artists are payments for very exceptional genius, possibly not of a high kind, but very rare; in other words, it is a scarcity-price; whereas the salary of a judge is the remuneration, not of exceptional genius, but of an able and successful lawyer. Even while one admits this, however, we think there will be general agreement among legal practitioners that the salary of judges to-day is hardly adequate to the high station they are expected to fill and to the present-day scale of living. It seems unfortunate that Lord BIRKENHEAD did not seize the opportunity afforded in 1920, when all salaries of civil servants were being revised, as well as those of Generals, Admirals, and Air Marshals, to secure for judges the moderate increase represented by substituting the figure of six thousand for five thousand as the proper judicial salary. At present, in the insistent necessity for national economy, no expectation of any such increase can, perhaps, be entertained. But in the U.S. the salaries at least escape income tax.

Mr. A. Copson Peake.

WE have the pleasure of including in our issue this week a portrait of Mr. ARTHUR COPSON PEAKE, the President of the Law Society, whose term of office concludes at the annual meeting of the Law Society next week. We intend to publish from time to time portraits of other eminent solicitors, and the series will, we hope, become a valuable and interesting memorial of those who are honoured by and confer honour on the profession. The career and work of Mr. COPSON PEAKE, who commences the series, are well known to a wide circle of lawyers, though it is only his more immediate colleagues who have been able fully to appreciate them. Born on 19th September, 1854, at Teddesley Coppice, Penkridge, on the edge of Cannock Chase, Mr. PEAKE was the son of EDWARD COPSON PEAKE and ELLEN PEAKE. Educated at Rugeley Grammar School and Oakham, he was articled to Mr. FREDERICK BERNARD COOPER of the firm of Messrs. WARDS and COOPERS, of Newcastle-under-Lyme. In May, 1877, he was admitted as a solicitor, and after being with Mr. J. HEATH STUBBS at Birmingham as managing clerk for a year, he went into partnership in March, 1879, with Mr. JOHN GREENE at Leeds, and in 1883 joined Messrs. BOND & BARWICK, and practised with them under the style of BOND, BARWICK & PEAKE until 1921. In that year Mr. HORACE MILLING joined the firm, and the practice is now carried on under the name of BARWICK, PEAKE and MILLING, 24 Basinghall Street, Leeds. The present partners are Mr. A. COPSON PEAKE, Mr. JOHN MARSHALL DINSDALE BARWICK, and Mr. GEOFFREY COPSON PEAKE.

But these items of professional life give little idea of the activities which have filled Mr. COPSON PEAKE'S career, both in business and in the life of the great City of Leeds with which he has been identified. Yorkshire is not poor in Law Societies, and Mr. PEAKE has been closely associated with the Leeds Law Society, the Yorkshire Law Society, and the Yorkshire Union of Law Societies. For some twenty-one years he was Hon. Secretary of the first. He has been President of the Leeds Law Society twice and of the Yorkshire Law Society once, and is now Chairman of the Yorkshire Union of Law Societies. He has also been Chairman of the Associated Provincial Law Societies, and is a Director of the Solicitors' Benevolent Association. He has been for some years a member of the Council of the Law Society and became President a year ago. Mr. COPSON PEAKE has been Clerk of the Peace for Leeds since 1896, and has been President and is now Treasurer of the City and Borough Clerks of the Peace Society. In addition to all these offices, he has been intimately connected with matters of public interest and importance in Leeds.

A life so full has deserved its share of recreation, and no doubt the burden of work would not have been so easily borne, but for the recreations in which Mr. COPSON PEAKE has indulged; in earlier days, cricket, football, and lawn tennis; now, fishing, shooting, and golf. For some years he was Hon. Secretary of the Yorkshire Lawn Tennis Association, and Vice-President of the Lawn Tennis Association; and he has been President and is now Hon. Secretary of the Yorkshire Anglers' Association.

In 1884 Mr. COPSON PEAKE married Miss EMILY MARION JELLICORSE, the elder daughter of Mr. J. B. JELLICORSE, solicitor, of Manchester. Mrs. COPSON PEAKE received the M.B.E. for her work during the war as a Divisional President of the Girls' Friendly Society and for work at Catterick Camp, a fitting recognition of very valuable services.*

* Further copies of Mr. Copson Peake's portrait packed flat may be obtained from the Publishers at the price of 9d. each, post free.

Dealings with Executors.

A Plea for full return to "Legal" Principle.

I.

RECENT cases before the late Mr. Justice NEVILLE and the Court of Appeal[1] have brought into prominence a dictum of JESSEL, M.R., in a case in the Court of Appeal.[2] This dictum is as follows:—

> "An administrator is considered in a Court of Equity as a trustee, and his primary duty is to sell the intestate's estate for payment of his debts. It is quite true that having the legal estate in the leaseholds, he may in some cases underlet them, and the underlease will be supported in equity as well as in law. But that is an exceptional mode of dealing with the assets and those who accept a title in that way must take it subject to the question whether it was the best way of administering the assets."

Now, if Sir GEORGE JESSEL by this meant to lay down a principle of general application, we most respectfully submit that the dictum is entirely erroneous. We submit that the general

1 *Cavendish and Arnold's Contract*, 1912, W.N. 83; *Re Chaplin's Contract*, 1922, 2 Ch. 824; and *Kemnal and Still's Contract*, 1923, 1 Ch. 293; *ante*, p. 364.

2 *Oceanic, etc.* v. *Sutherberry*, 16 Ch.D. 236.

principle is diametrically contrary, and is, that as regards a person dealing with the executor or administrator, without notice of any impropriety, whether that person deals for value or not, nothing can upset that transaction in law or in equity, as against the person so dealing.[3] It may be that the executor or administrator may be liable as for a *devastavit*, but that is not the said person's concern. JAMES, L.J., seems hardly to agree with this dictum of Sir GEORGE JESSEL.[4] Lord HATHERLEY'S words in *Vane* v. *Rigden*, 5 Ch. 668, 669, are as follows:—

> "In fact he [the executor] has complete and absolute control over the property, and it is for the safety of mankind that it should be so; and nothing which he does can be disputed, except on the ground of fraud and collusion between him and the creditor . . . in the eye of this Court as well as in the eye of a Court of Law the executor is the absolute owner of the property; he does not stand in the position of a *delegatus*, and nothing can intercept that ownership except fraud and collusion as between him and the parties with whom he deals."

It cannot, however, be said that this dictum of JESSEL, M.R., is gone, for in *Re Chaplin's Contract*, which was the case of a sale, sale would be the usual thing; and in *Kemnal & Still's Contract*, where executors of a tenant in common joined in a partition, partition would not only be the usual, but also the only remedy as between them and the other co-owners, till the Partition Acts of 1868 and 1876 gave the Court, but only on precedent request, jurisdiction to decree a sale. Further, in some of the judgments in both these cases occur expressions influenced by JESSEL, M.R's, dictum, that if the executor is acting in an unusual manner, it lies on the person with whom he deals to support the transaction. But so far as the writer knows the M.R.'s dictum has never yet been translated into actual decision. A case of *Keating* v. *Keating*,[5] before Lord ST. LEONARDS is sometimes cited in support of Sir GEORGE JESSEL'S dictum; an early passage in the judgment is read to this end, but the whole judgment, which would explain that the judge was applying only to the facts of that particular case, is not read.

II.

Let us consider first the effect of this dictum. It actually inverts the maxim "*omnia presumuntur rite esse acta*": it really declares that the testator, who has, and always has had, unqualified right to select the person who shall continue his *persona*, and administer his estate, has not in fact or in equity that right: it gives in a sense that right to the purchaser, or rather to the view of a judge in equity in an administration action or vendor and purchaser summons; for it is obvious[6] that though the original purchaser may be satisfied, he cannot compel a purchaser from him to be satisfied: and this it does when the very fact that the dealing is unusual, proves, unless indeed the executor is by that *mere* fact to be presumed to be acting improperly, that the administration is a difficult one, requiring unusual dealing; and is the very case in which the testator would particularly desire that the person he has nominated, and has right to nominate, as his personal representative, should, unhampered by any administration action, administer as he thought best.

Again, consider its effect. Say an owner of a large estate in town or in country dies; has every lessee, to whom the executor may grant a lease, occupation, building, or agricultural, to prove that the executor is rightly administering?

If this dictum were indeed true equity, England might well lament that the sometimes ultra cleverness of equity had ever been superimposed on the grand and simple genius of the common law.

We shall not in this article attempt to investigate the cases, in equity, in which the dealer with the executor knows at the time of dealing, that the executor is dealing with the testator's assets to secure or pay the executor's own private antecedent debt. We shall not venture on that quaking morass.[7] We assume that the dealer knows nothing of anything that could by any possibility be suggested to be a *primâ facie* impropriety on the executor's part.

III.

It may, however, be that Sir GEORGE JESSEL did not mean his dictum to be of universal application: and we now make a suggestion (which we admit we have not seen suggested by any other) that the *decision* in the *Oceanic Case* may have been meant to decide no more than this simple proposition, viz.: That where a man who has been administrator,[8] but as such is *functus officio* and has become trustee for the next-of-kin deals with a third person, who does not know that he has been administrator, and creates for value a mere *equitable* interest in that third person's favour: then the prior equity in point of time of the next-of-kin, will prevail over the subsequent equity in point of time of the purchaser.[9] We suggest this as a possible explanation of the actual decision: note the facts, that in the *Oceanic Case* the administrator had exactly the same name as his father, the intestate; that in the underlease containing the option, no reference is made to the title of the grantor (who was, in fact, the administrator) as administrator; and the curious variation by the Court of Appeal (16 Ch. D., p. 246), to which no reference is ever made, of the order made by the court below. Let us remember, too, that the lease was not impeached, the objection was solely to the option—a mere equity.

If this is not the explanation: and if the Court of Appeal really meant to decide that a person who takes a lease containing an option of purchase, from one he knows to be executor, and without notice of any impropriety in the transaction, cannot support that option: then the writer can only express a most respectful hope, that such a decision may some day be submitted to consideration of the House of Lords.

Why is the person so dealing not entitled to suppose that the executor can only raise the money required for debts and other administration by granting a lease? And that the lessee will only take a lease if it includes such option?

We are not, of course, suggesting, in face of the *Oceanic Case*, that any purchaser should be so rash as to take such a title without objection: we are merely expressing a hope that, having taken the title without objection, he will defend it to the last court.

The present writer when arguing *Cavendish* v. *Arnold*[10] asked NEVILLE, J., who had been counsel in the *Oceanic Case*, to explain to him that case: but that learned judge merely answered that he had never been able to understand it.

The *Oceanic Case* arose in the case of an administrator, not executor: but it has never been suggested that that case does not equally apply to an executor. At one time indeed FRANCIS BACON and Lord HARDWICKE both thought that one of several administrators had not the same rights as one of several executors, because the latter took from the testator, the former from the ordinary: but the contrary, to the general convenience, has long since been settled.[11]

IV.

Now what is that thing called an executor? The name itself, perhaps, would rather seem to import the carrier out of something, perhaps a will, and may probably have come down from an early time, when the heir administered, but the executor was put in as supervisor to see that he did so.[12] But curious

3 *Earl Vane* v. *Rigden*, L. R., 5 Ch., pp. 668, 669, and see authorities cited (Part VII) below.

4 He had been party also to the decisions in *Earl Vane* v. *Rigden*, *supra*, and in *Charlton* v. *Earl of Durham*, L.R. 4 Ch. 433.

5 Ll. & G. temp. Sugd. 133.

6 *Re Chaplin's Contract*, 1922, 2 Ch., p. 832.

7 See *passim* Lord Eldon's judgment in *M'Leod* v. *Drummond*, 17 Ves. 152; *Graham* v. *Drummond*, 1896, 1 Ch. 968.

8 The next of kin is not *cestui que trust* of any particular asset till the administrator is as such *functus officio*: *Vanneck* v. *Benham*, 1917, 1 Ch. 60; *Barnardo's Homes* v. *Commissioners, etc.*, 1921, 2 A.C. 1.

9 See *Re Morgan*, 18 Ch. D. 93; *Attenborough* v. *Solomon*, 1913, A.C. 76.

10 1912, W.N. 83.

11 See in *Jacomb* v. *Harwood*, 2 Ves. s., see p. 267.

12 *Pollock and Maitland, II*, pp. 335, 336.

though it be that while our modern statutes use the term[13] "personal representative," whereas that term as a simple description of the executor seems unknown to our early text-books or decisions: yet there is no doubt whatever that from the earliest times our writers and law knew the functions of an executor to be those of a *personal* representative of the testator.[14] Note the word is "personal" not "legal." We find in the earliest reports we have, the executor in full blast, with many of his present-day rights, as a *legal* officer; years before the Lord Chancellor, by actually in equity enforcing the old equitable use, created the present-day *equitable* officer known to us as a trustee.

We find repeated instances of the Legislature forcibly explaining the distinction between an executor and a trustee. We find that one of several executors, but all the trustees may compromise, etc.[15]; an expression that "trust" used in a statute shall include[16] the duties incident to the office of personal representative; that one of several executors shall not transfer real estate[17]; that an executor can by plea of the Statute of Limitations bar a legacy given simply and not upon trust[18]; though he retains assets available; and of course a "residue" is a legacy within this section.[19]

Then turn to well-known principles illustrated in quite modern cases, though the principle is as old almost as the hills. An executor need not tell the legatee of conditions attached to his legacy[20]; one of several executors can validly assign a term of years, and it is immaterial that, though both are made parties as assignors, one only executes[21] the deed; one executor can give a valid receipt, and it is quite immaterial that the receipt he gives purports to be signed by both, he having in fact forged his fellow's signature[22]; there are no shares between executors, therefore executors cannot compel partition *inter se*[23]; if one of several executors assigns all his share in a term of years the entirety of the whole term passes[24]; to this day one executor can prefer creditors, or retain the debt to himself out of *legal* assets, in spite of all that equity can do, and in defiance of its peculiar rules as regards *equitable* assets.

"Strictly speaking, a trustee cannot have a trust imposed upon him, *virtute officii*, as executor. If a trust is imposed upon him, it is in another character, viz., that of a trustee whose duty it is to carry out the trust. *Quâ* executor he cannot have a trust imposed upon him by the will. The only trust of which he is capable as executor is the trust created by *the law* for the next-of-kin."[25] By "the law" in this passage the Vice-Chancellor meant, not the common law, but the then modern statute, 7 W. 4, c. 40. If there was no residuary bequest then at the common law the executor took; but in equity if, and only if, words appeared in the will on which equity could infer that he took as trustee for the next-of-kin, equity enforced the express trust thus created. In favour of the next-of-kin, this statute inverted the legal proposition, and now, by that statute, for the executor to take beneficially, he has to prove that intention affirmatively on the face of the will. He is now, therefore, for that case, a quasi statutory trustee.

Now what is the basic reason for these differences in the case of executor and trustee? We suggest the reason under the next heading.

13 V. & P. Act, 1874, s. 4; C. Act, 1881, s. 30; and *passim*; Trustee Act, 1893, s. 10; Land Transfer Act, 1897, *passim*.
14 *Litt.*, s. 337; *Co. Litt*, 209 *a*; *Swinburne*, 1st ed. (A.D. 1590), p. 13.
15 Trustee Act, 1893, s. 21; C. Act, 1881, s. 37.
16 Trustee Act, 1893, s. 50.
17 Land Transfer Act, 1897, s. 2 (2).
18 3 & 4 W. 4, c. 27, s. 40.
19 *Re Richardson, Pole* v. *Pattenden*, 1920, 1 Ch. 423.
20 *Re Lewis*, 1904, 2 Ch. 656.
21 *Simpson* v. *Gutteridge*, 1 Mad. 609; *Re Chaplin*, 1922, 2 Ch., p. 839.
22 *Charlton* v. *Earl of Durham*, L.R. 4 Ch. 433.
23 *Wentworth Office of Executor* (Ed. 1763), 99, 100.
24 *Wentworth, supra*; *Anon., Dyer*, 23*b*.
25 Per Kindesley, V.C., in *Dacre* v. *Patrickson*, 1 Dr. & Sm., p. 185, cited with approval by Eady, L.J., *Re Blow*, 1914, 1 Ch. 233.

(*To be continued.*)

Post Mortem Damages in Divorce.

It has often been remarked that there is no class of cases in which reported authority is so hard to find as those which in the necessity of things would seem likely to arise frequently. Perhaps seldom has this apparent paradox appeared so true as in the recent case of *Kent* v. *Atkinson*, 39 T.L.R. 404, where Mr. Justice Hill could find no decision directly in point on the simple question whether a husband, whose wife has died before he initiates proceedings against her paramour, can recover damages for adultery against the latter. As a matter of fact, the learned judge, before he did arrive at a decision, found it necessary to consider many interesting issues of fundamental common law principle.

The facts in *Kent* v. *Atkinson* were free from any complications except those contained in the issue of law. The petitioner's wife died in July, 1921. Nearly a year later, namely, in May, 1922, he presented a petition for divorce against her and the co-respondent, and claimed damages against the latter for adultery. Obviously the petition could not claim a divorce, any action against the wife having abated with her death, and indeed being obviously unnecessary. But the husband desired to claim damages against the alleged adulterer, and therefore had to present a petition, since s. 33 of the Matrimonial Causes Act, 1857, expressly abolished the old common law action applicable in such cases, and substituted for it a claim for damages in the course of a divorce petition, such damages being subject to the disposal of the court and not going as of right to the husband. Therein, of course, they differ from damages in any action of tort, such as was the old proceeding for "criminal conversation," popularly abbreviated to *crim. con.* Indeed, damages recovered for adultery nowadays are, more often than not, settled by the court on the guilty woman herself or on the issue of the marriage; the court has an absolute discretion in the matter, although in practice there are customary ways of dealing with different classes of circumstances in the disposal of the damages.

The co-respondent not only denied adultery, but took a preliminary objection to the hearing of the petition at all, on the ground that the court had no jurisdiction, and it was on this preliminary objection that Mr. Justice Hill delivered the very interesting judgment to which we have referred. The difficulty in the way is a simple, but also a subtle one. Did s. 33 of the Act of 1857 abolish the remedy of *crim. con.*, or did it abolish only the form of the action? To put it conversely, is the claim for damages conferred by s. 33 a new form of legal relief, one incidental to divorce proceedings only; or is it simply a substituted statutory remedy for the old common law remedy—differing in its incidents and its procedure, but subject to the same general principles. If the remedy is abolished, then no such claim for damages is possible in the absence of a right to obtain judgment on a divorce petition, for the new statutory relief is clearly incidental and auxiliary to the right to a dissolution of marriage. But if the remedy is not abolished, only converted into a new statutory form, then it would seem that a divorce petition can be presented, not merely to claim a dissolution of marriage or a judicial separation, but even for the sole purpose of claiming damages against an adulterer. This is a startling proposition, and not unnaturally the court hesitated before arriving at a conclusion of law which renders possible such a result.

At common law an action of *crim. con.* was simply an action in tort, in fact an action trespass on the case. Interference with marital monopoly is as much a trespass as infringement with the enjoyment of property, or the execution of contracts, or the right to carry on one's business in one's own way; and each of these is a well-known form of tort, provided there is *damnum* as well as *injuria*. In the case of adultery, of course, *damnum* will be presumed although evidence must be led to show the *quantum* of damage actually suffered in the particular circumstances of the case. At common law, then, such an action was subject to all the usual incidents of an action of trespass on

the case. It could be brought either before or after the death of the wife, for the *injuria* and the *damnum* both occurred at a previous date, that of the adultery. Supposing, indeed, that the act of adulterous intercourse had actually resulted in the immediate death of the wife, there might have been a difficulty because of the application of the maxim, "No one can recover damages for the loss of a human being's life," but even then, quite apart from any possible bearing of Lord Campbell's Act, the husband would have had a remedy for the actual burial expenses incurred by him; although not for any larger sum: *Osborn* v. *Gillett*, L.R. 8 Ex. 88; *Clarke* v. *L. G. O. Company*, 1906, 2 K.B. 648. But the killing of a wife as either the immediate or remote result of the intercourse is obviously an unlikely state of events, although much argument as to such a hypothetical result occurred in the course of *Kent* v. *Atkinson*, *supra*. Normally, a husband's right to recover damages against the adulterer, arising before her death, would have been clear at common law. Only the measure of damage might have been affected by the fact of her subsequent death before action brought; since such death would diminish the duration of the marital tie which the adulterer had broken, and consequently the *quantum* of loss occasioned to the husband.

Now, the Matrimonial Causes Act of 1857, while not suppressing absolutely the remedy, but rather substituting a statutory remedy for it, does not leave the remedy just as it was. There are limitations imposed by the statute on the old remedy. It cannot be maintained if the adultery has been condoned, for no petition for adultery would lie in such a case: *Bernstein* v. *Bernstein*, 1893, P., at p. 318. Nor can it be maintained where there is a discretionary bar to the grant of a divorce: *Cox* v. *Cox and Warde*, 1906, P. 267; *e.g.*, where the husband has himself committed adultery or deserted his wife. It would seem, then, that the statutory remedy is very different from the common law remedy, which is not subject to any such limits. And this suggests that it is a new statutory remedy substituted for an abolished action of tort, in which case the husband's petition could not be entertained, in the absence of a right to a judgment for divorce, after his wife's death.

But there is another view of s. 33 possible, and this view Mr. Justice HILL finally adopted. It may be that the section merely substitutes a statutory tort of *crim. con.* for a common law tort, subject to certain statutory modifications which override the incidents of the common law remedy wherever they are inconsistent with it, but otherwise leave these incidents exactly as they were before the statute. In such a case, where the section is silent as to any incident, whether expressly or by implication, the old rule of the common law is still in force. Now, the statute is silent as to a claim for damages after the death of the wife. Therefore, unless its provisions by necessary implication repeal or are inconsistent with the old right to recover damages, the right remains—but can only be pursued in the statutory way, namely, by presenting a petition for divorce. The court did not see any inconsistent implication in the provisions of the Matrimonial Causes Act, 1857, and therefore held that this remedy is still available to an injured spouse.

The Freedom of the Individual.

LIBERTY has two aspects. An external aspect and an internal aspect. In its external aspect the freedom of the individual is bounded by the rights of others to non-interference. It is epigrammatically expressed in an illustration given by Professor Chaffee, of Havard, in his "Freedom of Speech," which we reviewed recently. A man who was arrested for swinging his arms and hitting another in the nose asked the judge if he had not a right to swing his arms in a free country. "Your right to swing your arms," replied the judge, "ends just where the other man's nose begins." The internal aspect concerns the right of the individual to free activity and development within that sphere which the corresponding rights of others leave to him. It is with this latter aspect we understand that Mr. E. S. P. Haynes deals in the books—The Decline of Liberty in England (1916), and the Case for Liberty (1919)—to which a third has now been added.*

*The Enemies of Liberty. By E. S. P. HAYNES. Grant Richards, Ltd. 6s. net.

The external liberty of the individual, which we have just illustrated from a writer who has raised an eloquent protest against the intolerance which characterized the United States during the war, is described in equivalent terms by Mill. In Chapter 3 of his "On Liberty," which deals with Individuality as one of the elements of well-being, he says: "The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people." But it is a little singular that for the statement of the importance of individuality—that is, of the internal aspect of liberty—he goes to a German, Von Humboldt, in "The Spheres and Duties of Government." The object, said that writer, towards which every human being must ceaselessly direct his efforts, and on which especially those who design to influence their fellow men must ever keep their eyes, is the individuality of power and development; for this there are two requisites, freedom and variety of situations; and from the union of these arise individual vigour and manifold diversity, which combine themselves in originality. Mill regarded Humboldt as advanced in his ideas, but we need not carry this quarrying in century-old sources any further; nor need we indulge in facile reflections on the apparent changes in German mentality. Mr. Haynes is concerned with individualism in this country and with the influences of "the Enemies of Liberty" who, whether consciously or not, seek to repress it, and his protest comes at a seasonable time. According to the revolutionary dictator of Italy, mankind is tired of liberty; as to that there is nothing left now but "the more or less putrescent corpse of the Goddess of Liberty." Probably this is but the portent of an hour, and is a remarkable development over which we need not linger. But Mr. Haynes reminds us in his preface of these singular words, and he adds: "For us the loss of liberty is only justified by the necessity of coping with war and sedition; law and order are the natural companions of liberty. In Great Britain we are at the moment as tired of dictators as Mussolini is of liberty."

We come, then, to the specific "Enemies" whom Mr. Haynes names as the subjects of his successive chapters, and perhaps we shall not be so sure of unanimous approval. They are: Church and Chapel, the Modern Puritan, the Collectivist, the Communist, the Prohibitionist, the Prude, the War-lord, the Super-capitalist, and the Politician. Most of these subjects we prefer to leave to the reader's own consideration when he takes up this very interesting book. Mr. Haynes is, perhaps, not altogether dissatisfied with the course of events. "Social freedom, by which I mean freedom from the tyrannical interference of the community with the affairs of the individual, is on the whole more developed than it was seven years ago." But while there is to-day plenty of lip service to liberty, he reminds us that "eternal vigilance" is even more required than in normal times. "The strength of the herd instinct grows with the spread of the newspaper habit, and the enemies of liberty are constantly shrieking about dangers which necessitate prying interference with the individual."

As we have said, we do not propose to examine and assess the danger of the "Enemies," or, indeed, to test whether their enemy character is in fact substantial. "Church and Chapel" is not a subject which we can profitably discuss, whether in our own individual capacity we are one or the other. "By a curious irony "Church and Chapel," says Mr. Haynes, "have concentrated on morality as their principal department of public activity." But why not? This seems to be their joint care, whatever may be their particular tenets—perhaps quite a minor matter. A famous judge, who died not very long ago, classified the diversities in early Cambridge days as "platitudinarian, latitudinarian and attitudinarian." But divisions of opinion, whether expressed epigrammatically or not, do not affect the fundamental fact that Church and Chapel stand for morality, and it has been often remarked that those who are outside both the one and the other really base their lives on fundamental truths of which the Church—in its broadest sense—is the guardian. We do not suppose that Mr. Haynes means anything to the contrary.

We might in a similar strain question whether the "Modern Puritan" is really the enemy that Mr. Haynes assumes. But then, Mr. Haynes has Puritans of various kinds—Catholic Puritans, Protestant Puritans, and Agnostic Puritans, and we gather that they are not equally hostile to liberty. The varying degress of their hostility we need not examine. Catholicism gets off lightly. It "has preserved the pagan theory of what roughly corresponds to Hellenism as defined by Matthew Arnold." But Matthew Arnold, with his "stream of tendency making for righteousness"—perhaps a forgotten phrase in these days—would have been the first to admit that the true value of social and individual life is founded on the morality which in his father's teaching made Rugby famous. Here, again, Mr. Haynes, no doubt, is on the same side, and in his tilt at the Modern Puritan, he diverges to the larger theme of democracy, and hazards the dictum that "Democracy has always been the enemy of social liberty, and it is now beginning to destroy political liberty." Mr. Haynes' remedy is the holding of property. Liberty is, he says, essentially bound up with property.

As to the Collectivist—we can pass the Communist by as a more advanced species of the same order—we are only just emerging from the Collectivism which flourished during the war. "During the war," says Mr. Haynes, "a number of bureaucrats were let loose and did exactly as they liked at the expense of the public. They were only brought to book in the years that followed the Armistice by the Judges, who suddenly woke up to the fact that the law of this country provided for the control of officials and had to be duly administered."

"The Prohibitionist" Mr. Haynes arraigns as one of the chief enemies, but we are content to note that the battle is joined and to leave it there. Prohibition in America may be a sign of rooted aversion to liberty, or it may be a recognition of the fact that alcoholic liquor was surely undermining social life. What is the outcome remains to be seen. In his chapter on the "War-lord" Mr. Haynes sympathizes with the soldier who may never see a war. "I have a hankering sympathy with men of this type"—war-lords like Hindenburg and Tirpitz, whose one occupation in life is war—"for it must be exasperating to learn a trade which one is never allowed to test by experience. I do not imagine that any solicitor would be very happy if he were never allowed to issue a real writ, or to have the experience of real litigation." But in fact civilization, while it has no use for war-lords, has abundant use for police, and here the class in question can find occupation. In Mr. Haynes' desire for the total abolition of private armament makers we are ready to join, and in his assertion that "Heroic measures will be necessary if the homicidal maniacs of Europe cannot recover their senses." But if we are not careful we shall slip into controversial matter. "The Super-capitalist," for instance, and "The Politician" as enemies of liberty invite caution rather than urge to comment. The politician, it seems, is "surrounded on every side by influences hostile to liberty." But with all these "Enemies" providing subjects for Mr. Haynes' interesting and trenchant chapters, we are glad to see that in the final chapter he addresses "The Friends of Liberty," and gives sound advice from which we may quote: "We must all keep alive the sense of individual responsibility which is the only condition of any individual liberty"; and "the friends of liberty must actively oppose, in the Press and elsewhere, all forms of persecution, by which I mean unnecessary interference with individuals. The principles of political and religious toleration prolonged the life of the Roman Empire far beyond the natural period of its extinction by ruinous taxation and universal bureaucracy. The same principles have so far preserved the British Empire from destruction." The implication seems to be that the reprieve is only short. But perhaps the case is not quite so serious as that. At any rate Mr. Haynes' latest defence of liberty provides matter on which his readers wi l do well to ponder.

Res Judicatæ.

Garnishee Orders and Foreign Debtors.

(*Swiss Bank Corporation* v. *Boemische Industrial Bank*, 1923, 1 K.B. 673, C.A.)

The operation of attachment of debts by a garnishee order is based upon the geometrical proposition that two sides of a triangle are together longer than the third. A owes money to B and B owes money to C. If these debts are represented by two sides of a triangle A B, and B C, it is at once seen that the third side A C represents the quickest method of settlement; that is, A pays C. To translate this into legal language, C gets judgment against B, and then, finding that A owes money to B, C gets a garnishee order against A, and the desired result is attained. A pays C. The process has long been familiar in the practice of the Common Law Courts, and it is now embodied in R.S.C. Ord. 45, and the result, as stated in rule 7, is that payment made by A, the garnishee, to C, the judgment creditor, is a good discharge to A as against B, the judgment debtor.

That, of course, is quite conclusive as long as all the parties are subject to the jurisdiction of the courts of this country. But suppose, in our example, B is a foreigner. He is debtor to C, but as against A he is a creditor, and although payment by A to C under the garnishee order would be a valid discharge as against B in this country, it may be that it is not a valid discharge in the foreign country, so that A will be liable to pay over again in the foreign country. The danger of this induced the Court of Appeal in *Martin* v. *Nadel*, 1906, 2 K.B. 26, to refuse to make a garnishee order; but in the above case of the *Swiss Bank Corporation* it has been held that the test is whether the debt to be attached is situate here or in the foreign country. In *Martin* v. *Nadel* it was situate in the foreign country. In the present case, it was situate here; that is, it was a debt properly recoverable here, and by the rules of private international law, a discharge of the debt here would be recognised as an extinguishment of the debt by the courts of other countries. Hence there was no danger of A, the garnishee, being required to pay the debt over again in the foreign country, and the garnishee order was made absolute. The judgment creditors were the Swiss Bank Corporation; the judgment debtor was the Boehmische Industrial Bank carrying on business in Prague; and the garnishees were the London Merchant Bank and the National Provincial and Union Bank of England.

Patriotism and Charity.

(*Re Tetley*, 1923, 1 Ch. 258, C.A.)

A testator directed his trustees to apply one-fifth of his residuary estate "for such patriotic purposes or objects and such charitable institution or institutions or charitable object or objects in the British Empire" as they should think fit. The question whether terms of a gift connected by the word "and" are to be read conjunctively or disjunctively is an old difficulty. Here both Russell, J., and the Court of Appeal held that they must be read disjunctively. The trustees, therefore, had the choice of patriotic purposes or charitable objects, but the gift was only valid if their choice was confined to charities. Thus there emerged the main point in the case: Is a patriotic purpose necessarily charitable?

In *Income Tax Commissioners* v. *Pemsel*, 1891, A.C. 531, Lord Macnaghten enunciated his well-known division of charitable objects into four classes: trusts for the relief of poverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes beneficial to the community, not falling under any of the preceding heads. But it appears that this last expression is not to be inverted into the statement that all trusts beneficial to the community are charitable. But even so, is it true that all patriotic objects are beneficial to the community? The Master of the Rolls in *Re Tetley* seemed willing to assume that "beneficial to the community" is the same as "beneficial to the State"; but that requires an examination of what is really meant by "State." It may be merely the aggrandisement of a few, or of a single individual. "*L'Etat, c'est moi.*" At any rate, before a purpose can be said to be charitable because it is patriotic, and therefore beneficial to the community or the State, it is necessary to discover what is in an ordinary language meant by patriotism, and whether any particular purpose which can be labelled patriotic is in fact beneficial. Naturally this is an inquiry which Russell, J., and the Court of Appeal declined. According to Russell, J., what is or is not patriotic is in many cases mere matter of opinion. According to Warrington, L.J., "Patriotic" has a wide meaning, which depends very much upon the state of mind and the motive of the person who uses it. It would be possible to illustrate this by well-known examples, but it is unnecessary. At any rate, it is not for the courts to say that all purposes which might be called patriotic are also charitable. Hence the gift failed.

The Time of Incorporation of a Company.

(*In re Jubilee Cotton Mills, Ltd.*, 1923, 1 Ch. 1, C.A.)

Many interesting points which have been already discussed arose in *Re Jubilee Cotton Mills, Ltd.*, *supra*, a case affecting the secret profits of promoters and involving a most complicated set of facts. We only note the case again in order to draw attention to a minor point of very great importance decided quite incidentally. The question arose whether or not a certain act had been done before or after the incorporation of a company; its validity depended on the existence of the company when the act was done. The certificate of incorporation fixed the date, but not the hour, on which the company was incorporated; the memorandum and articles were accepted and retained by the Registrar on 6th June, 1920, and in his certificate he fixed that day as the date of incorporation, although he did not actually find time to sign it until the 8th June. The act of which the validity was in question, namely, the allotment of shares before the filing of the statement in lieu of prospectus required by s. 82 of the Companies (Consolidation) Act, 1908, occurred on 6th June, the date named in the certificate. It was contended that on the evidence the allotment occurred *before* the company's application had actually been accepted by the Registrar, and therefore before there was any company in existence; but the Court of Appeal held that evidence of this kind is not admissible. The incorporation must be deemed to operate as from the commencement of the day on which it took place, so that all acts done in the course of that day are subsequent to the incorporation.

A Reuter's message from Washington of 23rd inst. says:—Sir Auckland Geddes, British Ambassador to the United States, and Mr. Hughes, U.S. Secretary of State, have signed on behalf of their respective Governments a convention extending for five years the Anglo-American Arbitration Treaty of 1908.

Books of the Week.

The Reign of Law.—The Law of the Kingsmen. By Lord Shaw of Dunfermline. With a Foreword by The Hon. Ex-President W. H. Taft, D.C.L., etc., etc., Chief Justice of the United States. Hodder & Stoughton, Ltd. 7s. 6d. net.

King's Bench Practice.—The Outlines of Procedure in an Action in the King's Bench Division, with a summary of the Rules of Evidence relating thereto. For the use of students. By A. M. Wilshere, M.A., LL.B., Barrister-at-Law. Third edition. Sweet & Maxwell, Ltd. 11s. 6d. net.

Income Tax.—Burn's Income Tax Guide. Fifth edition, covering 1923 Budget. The Facts, Figures and Illustrations cover all Liabilities and Claims up-to-date. By John Burns, W.S. W. Green & Son, Ltd. 2s. 6d. net.

Election Petitions.—Reports of the Decisions of the Judges for the trial of Election Petitions. Vol. 7, part 1. Edited by Herman Cohen, Barrister-at-Law. Sweet & Maxwell, Ltd. 10s. 6d. net.

Correspondence.

Cruelty to Animals.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—As we were responsible for the inclusion of s. 3 in the Protection of Animals Act, 1911, we have been greatly concerned to find that the magistrates seldom make use of the power to deprive cruel owners of their animals.

We have enquired into the reason for this and are informed that magistrates, generally, have an idea that it is necessary to prove a previous conviction before applying the forfeit clause, but this is not a correct view. We have, on several occasions, received dogs which London Stipendiary Magistrates have thought it wise to take away from the owner, and in most of these cases no previous conviction had been proved.

At the time that the clause was inserted in the Bill in the House of Lords, the Home Office very carefully considered the matter and the wording of the clause was altered in order to meet their views, but it is still very wide in its terms and states that magistrates may deprive "an owner of any animal if it be shown by evidence as to a previous conviction, or as to the character of the owner, or otherwise, that the animal, if left with the owner, is likely to be exposed to further cruelty."

Charles R. Johns,
Secretary,
National Canine Defence League.

27, Regent Street,
London, S.W.1,
14th June.

CASES OF THE WEEK.

House of Lords.

WILLMOT *v.* ANGLO-AMERICAN OIL CO. 11th June.

Appeal—Practice of House—Disturbing Findings of Fact—Employer and Workman—Claim for Damages for Personal Injuries—Negligence.

The House of Lords will refuse to disturb a mere finding of fact, in which the courts below have concurred, unless it is clearly demonstrated that the finding was erroneous.

P. Calland *v.* Glamorgan Steamship Co., 1893, A.C. 207, *followed.*

This appeal arose out of a claim by the appellant, who was a boilermaker in the employment of Hodge & Sons, for damages for personal injuries suffered through an explosion on the respondents' barge "Warwick." The respondents owned a number of barges for the carriage of petrol on the Thames and were accustomed to employ Miller & Co. to do repairs and alterations to their barges, and they requested Miller & Co. to make certain alterations to the "Warwick." Miller & Co. employed Hodge & Sons to carry out the alterations. The respondents' foreman gave instructions for the "Warwick," which had been carrying petrol, to be cleaned for repairs, and this was done, but owing to the elusive qualities of petrol it is impossible to ensure that no explosive vapour should remain behind, a fact well known to all concerned with oil tanks. The "Warwick" was towed up the river to Hodge & Sons' wharf. In the absence of the manager of the wharf a foreman named Bennett was in charge. Both the plaintiff and Bennett were aware of the danger of working in petrol-carrying barges, and there was a notice on the "Warwick" that no fire, lights or smoking were allowed on the barge. When the barge arrived at the wharf the respondents' lighterman saw that preparations were being made to begin work on her at once and that the workmen were bringing acetylene burners on board, and he told Bennett that it was not right to use an acetylene burner until the barge had been ventilated. Bennett, however, took no notice, and without making any attempt to ventilate the tank, he directed holes to be bored with an acetylene burner in the top of the tank with the object of lifting the tank out of the barge, though the tank was provided with lugs for lifting it when necessary. Soon after Hodge & Sons' men had begun work with the acetylene burner a violent explosion occurred, killing several men and injuring others, including the appellant, and doing considerable damage to property. McCardie, J., gave judgment in favour of the respondents. He found that the respondents were not guilty of negligence, that although the barge was a dangerous thing the appellant was aware of the danger, and that the real cause of the accident was Bennett's negligence. The Court of Appeal by a majority affirmed the decision of the learned judge, and the plaintiff now appealed to the House.

Lord Birkenhead said that their lordships were dealing with the matter on the basis that the trial judge had formed a clear view of the facts, and the majority of the Court of Appeal endorsed that view and affirmed his judgment. This was therefore a case of concurrent findings of fact. In such a case it had been frequently laid down that, unless the conclusion of fact was plainly wrong, this House would not interfere. The convenience of such a rule was manifest, otherwise their lordships would be repeatedly engaged on appeals on facts and would really be performing the functions of a judge of first instance. That rule did not apply where the question was one of drawing inferences of fact, but here it was not a question of drawing an inference of fact, but of reaching a conclusion on a very concrete question of fact. The broad rule was laid down very clearly by Lord Herschell and Lord Watson in the case of *P. Calland* v. *Glamorgan Steamship Co.*, 1893, A.C. 207. Lord Herschell said: "Now I quite agree with what has been said in this House in previous cases as to the importance of not disturbing a mere finding of fact in which both the courts below have concurred. I think such a step ought only to be taken when it can be clearly demonstrated that the finding was erroneous. In the present case, although I might probably myself have come to a different conclusion, I cannot say that any cardinal fact was disregarded or unfairly estimated by the courts below. I can lay hold of nothing as turning the balance decisively one way rather than the other. I think the decision of the question of fact at issue depends upon which way the balance of probability inclines, and I am not prepared to advise your lordships that it so unequivocally inclines in the opposite direction to that indicated in the judgments of the courts below that this House would be justified in reversing the judgment appealed from." Lord Watson said: "In my opinion it is a salutary principle that judges sitting in a court of last resort ought not to disturb concurrent findings of fact by the courts below unless they can arrive at, I will not say a certain, because in such matters there can be no absolute certainty, but a tolerably clear conviction that those findings are erroneous, and the principle appears to me to be specially applicable to cases where the conclusion sought to be set aside chiefly rests upon considerations of probability." He asked Mr. Morris whether he could point to any one conclusion of fact which he could impeach by saying that there was no evidence on which the judge could reasonably reach his conclusion. Mr. Morris admitted that he could not, but he contended that taking the evidence as a whole on the balance of probabilities, the learned judge had gone wrong. In his lordship's opinion this was a clear case. The appeal should be dismissed.

The other noble and learned lords concurred.—Counsel: *Harold Morris*, K.C., and *Tristram Beresford*; *Hastings*, K.C., and *Claughton Scott*, K.C. Solicitors: *Shaen, Roscoe, Massey & Co.*; *Thomas Cooper & Co.*

[Reported by S. E. Williams, Barrister-at-Law.]

BRADBURY *v.* ENGLISH SEWING COTTON CO. 21st June.

Revenue—Income Tax—English Company Holding Shares in American Company—Resident in England—Transfer of Control to America—Assessment to Income Tax—Income from Foreign Possessions—Three Years' Average.

The respondents, an English company, held shares in an American company, resident in England, its dividends being assessed for income tax under Sched. D. In 1917 *the management of the American company was transferred to America, and the dividends became taxable as income from foreign possessions.*

Held, that the dividends for the years 1915, 1916 *and* 1917 *could not be taken into account in computing the tax under Sched. D, Case V, for the years* 1918, 1919 *and* 1920.

Held, also, that the locality of shares in a company is determined not by its place of registration but by its place of residence and trading.

The question raised on this appeal was whether certain dividends received by the respondent company on stock in the American Thread Company in the tax years 1915, 1916 and 1917 could be brought into average in computing the liability of the respondent company to be taxed on their income from foreign possessions for the years 1918, 1919 and 1920. The respondents were a company registered and carrying on business in England. They held all or nearly all the shares in an American company called The American Thread Company, registered in New Jersey, and carrying on business in America, and in 1915-1917 the American company was managed and controlled from England in a manner which made it taxable as resident in England. It was accordingly so taxed upon its profits in the ordinary way, and was treated for taxation purposes as an English company. The respondents as shareholders bore their share of the taxation by the deduction by the American company from their dividends of a proportionate part of the tax. In 1917 the management and control of the American company was transferred to America, and the company ceased to be taxable as

resident in England, and could only be assessed under Case V of Sched. D in respect of its dividends on the shares of the American company as being income from foreign possessions. In making this assessment for the years 1918, 1919 and 1920 the Commissioners claimed to bring into computation for the three years' average to be struck under Case V the dividends received by the respondents during the years 1915, 1916 and 1917. This claim was resisted by the respondents, and the question was decided in their favour by Sankey, J., and the Court of Appeal.

The LORD CHANCELLOR (whose judgment was read by Lord Shaw of Dunfermline) said that it was important to point out that there was here no question of a claim to double taxation. The respondents' dividends for the first three years had already paid tax by deduction, and could not now be taxed again, nor did the appellant allege that they could. His claim was not to tax those dividends over again, but to tax the respondents' income from foreign possessions for the second three years, and for that purpose and for that purpose only to take account of the dividends received in the first three years and to compute the tax for the later years upon the average so obtained. As was pointed out in *Singer* v. *Williams*, 1922, A.C. 41, the fact that the income of a previous year was not taxable did not prevent it from being brought into computation for the purpose of assessing the tax payable in a later year, and so being treated as a measure though not as a ground of taxation. If the dividends for the first three years were in truth income from foreign possessions the Crown was, he thought, entitled to bring them into computation, and the real question to be determined was whether they were in fact such income. Then, were the dividends received in the first three years income from foreign possessions, or in other words was the common stock during the first three years a foreign possession of the respondents? That appeared to be a question of some difficulty. On the one hand the stock was stock in a company incorporated in New Jersey, having its registered office there, and so American by birth and status. But on the other hand it was decided in the *American Thread Co.* v. *Joyce*, 29 T.L.R. 266, that this American company was during the first three years resident in England where, to use the language of Lord Loreburn in *De Beers Consolidated Mines* v. *Howe*, 1906, A.C. 455, the seat and directing power of the affairs of the company were located, and from whence the chief operations were controlled, managed and directed. The question therefore was whether the locality of the shares of a company was to be determined by its place of incorporation and registration, or by the place of residence and trading. After some doubt he had come to the conclusion that the latter was the true view. Shares in a company, said Sir James Hannen, in *Re Ewing*, 6 P.D. 23, "are locally situate where the head office is," and that meant that they were locally situate where the company's principal place of business was to be found. A share or parcel of stock was an incorporeal thing carrying the right to a share in the profits of a company, and where the company was, there the share was also, and there was the source of any dividend paid upon it. It was decided in *American Thread Co.* v. *Joyce, supra*, that during the first three years the American company was here for all the purposes of income tax, and the company being here he found it impossible to hold that its stock was abroad. In any case he was unable to understand how the Crown having in 1913 successfully maintained that the American company was then resident and trading in England could now be heard to say that the profits of that trading when divided among the stockholders were income from foreign possessions. The fact that the dividends were declared in America and remitted by American cheque could not, in his opinion, displace the inference to be drawn from the fact that the company resided and traded in England. The result might be unfortunate for the Crown, which would lose duty on some part of the later dividends, but the Crown succeeded in 1913 in establishing that for income tax purposes the American company was here and must accept the consequences of the victory. The appeal failed, and should be dismissed with costs.

Lords SHAW, WRENBURY and PHILLIMORE gave judgment to the same effect.

Lord SUMNER delivered a dissenting judgment.—COUNSEL: *The Attorney-General (Sir Douglas Hogg*, K.C.), *Sir Leslie Scott*, K.C., and *R. Hills*; *Sir John Simon*, K.C., *A. M. Latter*, K.C., and *Cyril King*. SOLICITORS: *Solicitor of Inland Revenue*; *Rawle, Johnstone & Co.*, for *Addleshaw, Sons and Latham*, Manchester.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

High Court—Chancery Division.

Re PILKINGTON'S SETTLEMENT: PILKINGTON *v.* WRIGHT.

Eve, J. 31st May.

SETTLEMENT—POST-NUPTIAL—TRUST FOR WIFE FOR LIFE—REDUCTION IN CASE SHE SURVIVED HER HUSBAND AND MARRIED AGAIN—POWER TO APPOINT—CESSER ON RE-MARRIAGE—DIVORCE—RE-MARRIAGE—EFFECT ON INCOME AND POWER.

By a settlement the income of two-thirds of the settled fund was to be paid to the wife for life, but if she survived her husband and married again only one-fifth of the two-thirds was to be paid her. Power to appoint two-thirds of the fund in favour of her children was given to her, to be reduced to one-fifth of two-thirds in case of re-marriage. She obtained a divorce and by deed poll appointed the two-thirds, reserving a power of revocation. In April, 1922, she married again.

Held, that she was still entitled to receive the income of two-thirds of the fund, but in future she could only appoint one-fifth of such share.

By a post-nuptial settlement dated 29th June, 1916, certain shares and other property were assigned to trustees upon the trusts therein mentioned. Clause 6 provided that the trustees should pay the income of one-third of the settled fund to the settlor during his life. Clause 7 provided that the trustees should hold the other two third parts of the settled fund, thereinafter called the larger share of the settled fund, upon trust to pay the income thereof to the settlor's wife during her life for her separate use without power of anticipation. Clause 8 provided that if the wife should survive the settlor and should marry again the trustees should thenceforth during the rest of her life pay to her the income of one fifth of the larger share of the settled fund for her separate use without power of anticipation during such subsequent coverture. Clause 9 provided that the wife should have power to appoint the larger share of the settled fund by deed or will for the benefit of her children by the settlor, provided that if she should marry again such power should cease "except as regards one-fifth part of the larger share of the settled fund (being the part of the income of which she will thenceforth be entitled for her life under the provisions thereinbefore contained)"; but this proviso was not to prejudice any appointment which she might previously have made by deed or in any way affect such appointment otherwise than by precluding the wife from exercising after such re-marriage any power of revocation which might have been reserved to her so far as regarded that part of the larger share in which her life interest should cease on re-marriage. Clause 30 provided that the power of appointing new trustees should be exercisable by the wife during her life, but if she should survive the settlor and marry again then such power should cease. The settlor and his wife were married on 20th April, 1903, and there were four children of the marriage, all of whom were born prior to the date of the settlement. On 10th April 1919, the wife obtained a decree *nisi* for dissolution of the marriage, which was made absolute on 20th October, 1919. By a deed poll dated 18th April, 1922, the wife exercised her power of appointment over the larger share of the settled fund in favour of the four children, reserving to herself a power of revocation and new appointment. On 20th April, 1922, the wife married again. The trustees took out this summons to have it determined whether as from the re-marriage the trustees should pay the wife the income of the larger share or only the income of one-fifth of such larger share, whether the wife was entitled to exercise the power of revocation and new appointment reserved to her by the deed poll, and whether the power to appoint new trustees was still vested in the wife.

EVE, J., said that he had to construe this settlement in the light of an event which was not in the contemplation of the parties when the deed was executed. With regard to clauses 8 and 30, it was quite clear that two conditions would have to be fulfilled before they came into operation, those two conditions being that the wife should survive the settlor, and that she should re-marry. The only question was whether the meaning of those two clauses could be controlled by the expression in the parenthesis introduced into the proviso in clause 9. He did not think they could. The words in brackets in clause 9 were an inaccurate and insufficient expression of what had already been provided for by clause 8, and there was nothing else in the deed which could be held to control the plain language of clause 8 and clause 30. He held, therefore, that the two events had not happened which would deprive the wife of her right to receive the income of the whole of the larger share of the settled fund and her right to appoint trustees of the settlement. With regard to the wife's power of appointment over the larger share of the settled fund, the language of the proviso in clause 9 differed from the language in clauses 8 and 30, and the one event which deprived the wife of the power of appointing the whole of the larger share had happened, and in future she could only appoint one-fifth of such share. The power of revocation, however, in the events which had happened, still extended to the whole of the larger share. The result was that, except so far as the wife's power to appoint in the future was concerned, her position was wholly unaffected by her re-marriage.—COUNSEL: *Sir D. Warmington*; *Gover*, K.C., and *Gavin Simonds*; *Maugham*, K.C., and *W. M. Hunt*. SOLICITORS: *Stephenson, Harwood & Tatham*; *Patersons, Snow & Co.* for *Wilson, Wright, Davies & Earle*, Manchester.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

Sir Reginald More (Mr. Justice) Bray, of the Manor House, Shere, Guildford, Surrey, and of 17, The Boltons, South Kensington, S.W., Judge of the High Court since 1904, and for many years Recorder of Guildford, a Bencher of the Inner Temple, who died on 22nd March, aged eighty, a descendant of Sir Thomas More, Chancellor to Henry VIII, left unsettled property of the gross value of £107,338 7s. 2d., with net personalty £43,731 19s. He left £100 to his clerk, John Moorman; £50 to Marie Louise Dulland; £25 to Sarah Bashford; £1 for each year of service to Sarah Bashford and each other domestic servant of over three years' service; and an annuity of £2 (in addition to her present annuity of £8) to Miriam Davis. Like many other famous judges and lawyers, says *The Times*, he failed to make his own will correctly, and certain interlineations made by him, but unattested, could consequently not be admitted to probate. In this matter he was in distinguished company, notably that of his schoolfellow, Lord St. Helier (for many years President of the Probate Court), Lord Halsbury, Lord Grimthorpe, Judge Rentoul, Judge Bacon, Lord Brougham, Lord Lyndhurst, and Lord St. Leonards, as well as numerous other prominent solicitors, barristers, and judges.

CASES OF LAST SITTINGS.

High Court—Chancery Division.

In re **CLARKE: BRACEY** *v.* **THE ROYAL NATIONAL LIFEBOAT INSTITUTION.** Romer, J. 22nd and 23rd March and 23rd April.

WILL—CHARITABLE AND NON-CHARITABLE OBJECTS—POWER OF DIVISION IN EXECUTORS—INVALIDITY—TRUSTS FOR INDEFINITE NON-CHARITABLE OBJECTS.

Where a testator's residue was given to four sets of objects, with power to his executors to determine in what shares and proportions such residue was to be divided among the four, and the objects of one set were not exclusively charitable, such power was held invalid, and as the property vested in all the members of the class equally until the power was exercised, the first three sets of objects took one-fourth each, and the remaining quarter went to the persons entitled to the testator's estate as on an intestacy.

Trustees of the Massey Clark Home *v.* Anderson, 1906, 2 K.B., 645 *applied.*

This was a summons by executors to determine (*inter alia*) whether a residuary estate was validly disposed of by a will or whether the gifts failed in whole or in part for uncertainty. The gift of the testator's residue was as follows: "I give and bequeath all the residue and remainder of my estate not otherwise disposed of by this my will to (*a*) such institutions society or nursing home or nursing homes or similar institutions as assist or provide persons of moderate means, such as clerks, governesses and others, who may not be able or eligible to benefit under the National Health Insurance Act, Old Age Pensions or other Act of a like character, to have either surgical operations performed, together with medical treatment or medical treatment alone, on payment of some moderate contribution, (*b*) the Royal National Lifeboat Institution, (*c*) The Lister Institute of Preventive Medicine, (*d*) and such other funds, charities and institutions as my executors in their absolute discretion shall think fit; and I direct that such residue shall be divided amongst the legatees named in the paragraphs (*a*) (*b*) (*c*) and (*d*) lastly hereinbefore contained in such shares and proportions as may trustees shall determine."

ROMER, J., after stating the facts, said: Applying the decisions in *Trustees of the Massey Clark Home* v. *Anderson, supra, Attorney-General* v. *Williamson*, 1839, 1 Beav. 370, *In re Gardom*, 1914, 1 Ch. 662, and *In re Estlen*, 1903, 89 L.T.R. 88, the objects under class (*a*) are charitable objects, but the objects under class (*d*) are not exclusively charitable, there being nothing in the will to prevent the executors from selecting under that class non-charitable funds and institutions. The effect of the residuary gift is that the testator has given his residue to the four objects or sets of objects, (*a*), (*b*), (*c*) and (*d*), with power to his executors to determine in what shares and proportions the residue is to be divided between the four. But the rule of the Court is that where the instrument itself gives the property to a class, with a power to A to appoint in what shares the members of the class shall take, the property vests until the power is exercised in all the members of the class, and they will take in default of appointment. See *Lambert* v. *Thwaites*, 1866, L.R. 2 Eq. 151. The executors have really a non-exclusive power of appointment, which they can exercise by appointing the whole fund to class (*d*), but that is an invalid power, because a power to appoint to charitable and non-charitable indefinite objects is just as invalid as a direct gift to such objects. There is therefore a gift to the four objects or sets of objects, with a super-added power of appointment, which is invalid. The property therefore remains vested in all the four without the executors having power to divide it, and the four take it in equal shares. The result is that one-fourth is held in trust for each of classes (*a*), (*b*) and (*c*), and the remaining one-fourth for the persons entitled to the testator's estate as upon an intestacy.—COUNSEL: *Tanner; Sheldon; Farwell*, K.C. and *Kenneth Wood; Manning*, K.C. and *Byrne; Dighton Pollock; Wilfrid Hunt.* SOLICITORS.: *Hiscott, Troughton & Grubbe; Clayton, Sons & Fargus; E. S. P. Haynes; Pennington & Sons; The Treasury Solicitor.*

(Reported by L. M. MAY, Barrister-at-Law.)

High Court—King's Bench Division.

EAST POOL AND AGAR LIMITED *v.* **REDRUTH UNION AND ILLOGAN OVERSEERS.** Div. Court. 13th April.

RATING—TIN MINE—PORTION NOT BEING WORKED—MINE TREATED AS PRODUCTIVE AND AS INTENDED TO PRODUCE—LIABILITY TO ASSESSMENT RATING ACT, 1874, 37 & 38 Vict., c. 54, s. 7.

The principles of assessment contained in s. 7 of the Rating Act, 1874, apply to a tin mine which is still productive, and apply notwithstanding the fact that a portion of the mine has been entirely abandoned, and that the remaining portion is not being worked, but is being kept in readiness for the resumption of mining operations in the future.

Case stated by agreement under s. 11 of Baines's Act, 12 & 13 Vict., c. 45. In a poor rate made by the overseers of the Parish of Illogan, on 1st April, 1921, the appellants were rated in one entry as occupiers of certain hereditaments. The appellants, on 26th May, 1921, duly objected, but failed to obtain any relief. This case was by agreement stated for the opinion of the High Court. The facts, as stated in the case, were as follows: "3. The appellants are a limited company incorporated 11th January, 1913, for the purpose of working certain tin mines known as East Pool and Agar Mines respectively, East Pool Mine being held under a lease from one A. F. Basset and Agar Mine being held under a lease from Viscount Clifden. The leases in both cases provided for payment by the appellants of dues with a minimum rent merging into dues, such dues being calculated on a sliding scale in accordance with the output of ore. 4. In 1919 the appellants purchased from the said A. F. Basset the freehold of the said East Pool Mine, including the mineral rights therein, and the same were conveyed by a deed of 7th July, 1920. In such conveyance there was a declaration that the subsisting estate created by the lease was not to merge in the fee simple, but the appellants have not since the date of the said purchase paid any dues to the said A. F. Basset. 5. Notwithstanding the matters referred to in the preceding paragraph, the basis upon which the said East Pool Mine was assessed for rating was not changed, nor did the appellants appeal against the assessment of their said mines until the year 1921, as set out in paragraph 2 hereof. The assessment of £5,858 18s. 2d. . . . is made up of a sum of £4,113 13s. 10d., being dues paid and payable by the appellants for the year 1920 in respect of their lease of the said Agar Mine, and which portion of the said assessment was made in pursuance of the Rating Act, 1874, and the sum of £1,745 4s. 4d. being dues which, but for the matters referred to in the preceding paragraph hereof, would have been payable in respect of the East Pool Mine. At the end of 1920 the appellants had, in accordance with their usual practice, made a return of these two sums to the respondents. 6. Early in 1921, by reason of general trade conditions, and the rise in the price of materials and labour, and the fall in the price of tin, it became unremunerative for the appellants to work the said mines or either of them, and on 12th February, 1921, all underground working for the extraction of ore from the said mines had ceased. Upon the said date 580 persons were in the employment of the appellants, of whom 550 were discharged from the said employment before the end of February. During the currency of the rate appealed against the appellants have not worked the said mines or either of them for a profit, and have not carried out any work in the said mines save and except as in the next succeeding paragraph hereof. 7. Between 1st April and 12th July, 1921, thirty men were retained in employment, including the superintendent, the underground manager, the secretary, the watchmen on the different shifts, and men engaged in keeping the machinery and plant in good order and in working the pumping engine. During the said period the pumping engine was worked for the purpose of preventing the said mines from being flooded, but pumping was discontinued from 12th July, 1921, onwards, owing to an accident to the plant caused on 18th May, 1921, by a fall of ground. The men engaged in pumping were then discharged, and since the said date some twenty men have been employed on part wages for the purposes set out above, other than pumping. Since the aforesaid accident a portion of the East Pool Mine has been entirely abandoned, owing to the fact that it is flooded, although with regard to the remaining portions of the said mines the plant and machinery have been kept intact with a view to resuming mining operations as and when commercially remunerative, and arrangements were made in or about the month of January, 1922, for sinking a new shaft. 8. The appellants contend (*a*) that neither the said mines, nor any part of them, are in law subject to an assessment based on s. 7 of the Rating Act, 1874, but that the ordinary principles of rating apply thereto; (*b*) that if the appellants are correct in their contention (*a*), the said mines should be assessed only at their value as a storehouse for the machinery and plant stored therein; (*c*) that in any event the gross estimated rental and rateable value of the said mines should be reduced by reason of the abandonment of a part of the East Pool Mine as set out in paragraph 7 hereof." By s. 7 of the Rating Act, 1874, it is provided: "Where a tin, lead, or copper mine is occupied under a lease or leases granted without fine on a reservation wholly or partly of dues or rent, the gross value of the mine shall be taken to be the annual amount of the whole of the dues payable in respect thereof ending on the thirty-first day of December preceding the date at which the valuation list is made, in addition to the annual amount of any fixed rent reserved for the same which may not be paid or be satisfied by such dues. The rateable annual value of such mine shall be the same as the gross value thereof, except that where the person receiving the dues or rent is liable for repairs, insurance, or other expenses necessary to maintain the mine in a state to command the annual amount of dues or rent, the average annual cost of the repairs, insurance, and other expenses for which he is so liable shall be deducted from the gross value for the purpose of calculating the rateable value . . ."

Lord HEWART, C.J., delivering judgment, said that the case disclosed that while both the mines in question were originally held upon lease, the freehold of one portion of them was purchased by the appellants in 1919. Counsel for the appellants had agreed that no stress was to be laid on this, and, therefore, the same considerations applied to the whole of the mines. It was contended by the appellants that no part of the mines was in law subject to an assessment based on s. 7 of the Rating Act, 1874, but that the ordinary principles of rating applied, and that the mines "should be assessed only at their value as a storehouse for the machinery and plant stored thereon." The respondents contended that the whole of the mines were in law subject to an assessment based on s. 7 of the Act of 1874. The only question was whether the matter was governed by that statute. Under the Statute of Elizabeth, The Poor Relief Act, 1601, 43 Eliz., c. 2, coal mines were declared to be rateable, but no other mines were mentioned. In consequence of that omission the Court had held in a series of cases that no mines other than coal mines were rateable. Consequently the Act of 1874 was passed by

which tin mines, *inter alia*, were made rateable. [His lordship read a portion of s. 7 of that statute: See above.] When dealing with the interpretation of that section the question of hardship involved in the rating of this unworked mine was not material, and the sole point for decision was the meaning of that section as applied to the present question. *Primâ facie* the mine, being a tin mine, the principles laid down in s. 7 must be applied strictly. But it was said that if the mine were a coal mine the principle laid down in *R.* v. *Inhabitants of Bedworth*, 1807, 8 East, 387, would apply. The answer was that that case related to a coal mine only, and was, therefore, outside the scope of the Act of 1874, and secondly, Lord Ellenborough, in that case, said: "The mine itself is exhausted, the subject matter of profit is gone, although the rent, which was no doubt calculated upon the probable average produce during the whole term, be still payable." It was not suggested that that was the condition of the mine in the present case. It was true that a portion had been abandoned, but s. 7 made no provision as to that. He could not accept the proposition of the applicants. The statute had laid down certain rules, and it was clear from para. 7 of the case that the mine was not exhausted, and that it was still being treated as productive, and as intended to produce. In his lordship's view the principles of assessment contained in s. 7 of the Act of 1874 applied; the assessment must stand, and the appeal must be dismissed.

AVORY and ROCHE, JJ., concurred, and the appeal was dismissed.—COUNSEL: *Konstam*, K.C., and *Tindal Atkinson*; *Hawke*, K.C.; *William Allen*. SOLICITORS: *W. J. Payne*, for *Daniell and Thomas*, Camborne; *Robbins, Olivey & Lake*, for *Grylls & Paige*, Redruth.

[Reported by J. L. DENISON, Barrister-at-Law.]

COMMISSIONERS OF INLAND REVENUE *v.* **ECCENTRIC CLUB LIMITED.** Rowlatt, J. 3rd May.

REVENUE—CLUB—BRITISH COMPANY—"UNDERTAKING OF A SIMILAR CHARACTER"—CORPORATION PROFITS TAX—FINANCE ACT, 1920, 10 and 11 Geo. 5, c. 18, ss. 52, 53.

In 1912 a club was formed for the purpose of providing its members with the means of social intercourse, and of supplying them with refreshments. It was not a proprietary club, and carried on no trade with persons other than its members, who were not entitled to any profits arising out of the income of the club.

Held, that its profits were profits of a "mutual trading concern" carrying on an undertaking of a similar character to the trade or business carried on by a British company, and that the profits, therefore, came within ss. 52 and 53 of the Finance Act, 1920, and were assessable to Corporation Profits Tax.

Appeal by the Crown from a decision of the Special Commissioners, discharging an assessment to Corporation Profits Tax. In 1912 the Eccentric Club was formed (as a British company) for the purpose of providing its members with a social club at which they could be supplied with refreshments. It was not a proprietary club, and no member was to be entitled to any profits out of the income of the club. The club derived no income from trade carried on with persons other than members of the club, and had never been assessed for purposes of income tax. In 1920 there was a considerable surplus of receipts over expenditure, but, if the subscriptions and entrance fees received during that year had not been included in this computation, there would have been a deficit. The club was assessed to Corporation Profits Tax, but, on appeal, the Special Commissioners discharged this assessment. From their decision the Crown appealed. By the Finance Act, 1920 (Part V, Corporation Profits Tax), it is provided: "s. 52 (2): The profits to which this part of this Act applies are, subject as hereinafter provided, the following, that is to say: (*a*) the profits of a British company carrying on any trade or business, or any undertaking of a similar character, including the holding of investments . . . s. 53 (2) . . . for the purpose of this part of this Act,—(*b*) profits shall include in the case of mutual trading concerns the surplus arising from transactions with members . . ."

ROWLATT, J., delivering judgment, said that the profits to which the material part of the Act applied were "profits of a British company carrying on any trade or business or any undertaking of a similar character, including the holding of investments." The first thing to observe was that the tax was a tax on the profits of a company, if it was a company within the section, including all its profits; certainly it was not the profits of its carrying on the trade or business, and the carrying on of a trade or business or any undertaking of a similar character was only to be looked at to see whether the company came within the section. If it came within it, it was taxed on all its profits; the trade or business or undertaking might result in a loss, but if the company was brought in, and if from other sources you found that there was a profit, the company would have to pay the tax on the result of its operations as a whole. Secondly, it was, presumably, not the profits of every British company that were to be taxed. He supposed that if there was any use in the remainder of the section, it was not so, because it was to be assumed that there might be a British company not complying with the rest of the section, otherwise the rest of the section was superfluous, and, for the same reason, it was not the case that every British company which was fulfilling the objects of its Memorandum of Association must thereby *ipso facto* be within the Act. It could not be that the mere object that it fulfilled its Memorandum by what it did, made it carry on a trade or business, because then you would merely reach the same result—every British company would then be within the Act. It was to be a British company carrying on a trade or business or undertaking of a similar character. No guidance was given here as to what characteristic of a trade or business you were to find repeated in the undertaking which was to be called similar and then there was "including the holding of investments"—again rather a hopeless form of words when one looked at it narrowly, and had to apply it, although of course it sounded easy when it was merely read without regard to the particular case. It seemed to him that the addition of the words "any undertaking of a similar character" really practically only came to this, that it added a sort of fringe to "trade or business" which he supposed the draftsman drafting the Act might have thought would be construed strictly. He could not say much more than that for the reasons he had already outlined. That being the section of the Act, he had now to deal with this case. This club, called the Eccentric Club, was the property of a company, and what the company did was to take subscriptions from the members of the club, who thereby became guarantors for the company. It was a company limited by guarantee. It also took payments from the members, of course, for the particular services which they obtained at the club; it paid the expenses, of course, of carrying on the club, on the other hand, and having done that, there was a balance which might or might not be profits; but the question to his mind was whether, up to that point at any rate, the company had carried on a trade or business or undertaking of a similar character. He had already indicated the difficulty that he found in applying those words "undertaking of a similar character." If the similarity consisted of the nature of a transaction by way of buying and selling, it was carrying on a business of an exactly similar character to that of a proprietary club or undertaking—it was exactly similar from the point of view of a proprietary club, but, in the ultimate destination of the results of its transactions, of course, it was wholly different from a proprietary club. Was it or was it not similar under those circumstances? It seemed to him that this company was carrying on an undertaking of a similar character to a trade or business of a company which had a proprietary club. Then came the question as to whether he had to look at the surplus of the profits that were made, which, after all, did not go to any shareholders, but remained with the company and benefited possibly the present members, or, at any rate, ultimately benefited the future, if not the present, members of the club in some form. In this case he thought he had sufficient guidance in the words of s. 53 (although it was a section of computation) because they clearly showed that profits of a mutual trading concern were to be treated as profits, and, therefore, he did not think it was possible to say that because a company was designed to conduct its business on the mutual principle, speaking broadly, it was, therefore, not a company within the Act at all. In this case he thought the Crown was right and, therefore, the appeal would be allowed with costs.—COUNSEL: *Sir T. Inskip*, Solicitor-General, and *R. Hills*; *Konstam*, K.C., and *R. Needham*. SOLICITORS: *Solicitor of Inland Revenue*; *J. D. Langton & Passmore*.

[Reported by J. L. DENISON, Barrister-at-Law.]

Court of Criminal Appeal.

REX *v.* **RIGBY.** 23rd April 1923.

CRIMINAL LAW—APPEAL—PRACTICE—NOTICE OF APPEAL—TIME WITHIN WHICH TO BE GIVEN—EXTENSION OF TIME—GROUNDS FOR—OBSERVATIONS—CRIMINAL APPEAL ACT, 1907, 7 Edw. 7, c. 23, s. 7.

By the Criminal Appeal Act, 1907, s. 7, it is enacted that where a convicted person desires to appeal or to obtain leave to appeal, he "shall give notice of appeal or notice of his application for leave to appeal . . . within ten days of the date of conviction," but the section gives the Court of Criminal Appeal power to extend the time for giving notice, except in the case of a conviction involving sentence of death. The applicant had been convicted of larceny, along with another prisoner. The other prisoner immediately appealed, and his conviction was quashed by the Court of Criminal Appeal. After his fellow-prisoner's conviction had been quashed, the applicant applied for an extension of time in which to appeal against his conviction, it being then some weeks out of time.

Held, that extension of time could not be granted in this case. Delay by a convicted person in giving notice of appeal involves inconvenience and expense, and substantial reasons must be given for the delay before extension of time can be granted, and the fact that the applicant's fellow-prisoner had his conviction quashed is not in itself a ground for extending the time for appeal.

Application for extension of time to appeal against conviction. The applicant was convicted on 3rd February, with another prisoner, of stealing a motor-car, and was bound over and ordered to pay a sum towards the costs of the prosecution. The applicant's fellow-prisoner was sentenced to 18 months' imprisonment, and he at once applied for leave to appeal against his conviction. Leave was granted, and his appeal was heard on 26th February, when his conviction was quashed. On 21st March, the applicant applied for extension of time within which to appeal. This was about five weeks out of time. The applicant gave as a reason for the delay that he had been legally represented at the trial and that his application for leave to appeal would have been made "but for the fact that I was misled by my late solicitors, they giving me the impression they were appealing on my behalf." On inquiry as to whether he instructed his solicitors to appeal, and, if so, on what date, the applicant answered that he instructed his solicitors in writing on 28th February, that is, two days after the appeal of his fellow-prisoner had been allowed. He gave no reason for not appealing before that date.

Lord HEWART, C.J., delivered the judgment of the Court (Lord HEWART, C.J., AVORY and SANKEY, JJ.). After referring to the above facts, his lordship said: The time, that is, ten days, within which notice of appeal or application for leave to appeal should be given is fixed by s. 7 of the Criminal Appeal Act, 1907, and there is a notice in the cells informing convicted persons that if they wish to appeal they must send in their notice within that time. Though power is given by the same section to extend this time (except in cases involving sentence of death), it is clear that the Act, the practice and the rules of this court all contemplate that the notice of the application for leave to appeal or of the appeal shall be made within the ten days. Where the notice of application or appeal is not given in time, unnecessary inconvenience is caused. The court has decided in many cases that substantial reasons (see per Lord Alverstone, C.J., in *Rex* v. *Rhodes*, 74 J.P. 380) must be given for the delay, even though the delay be only a delay of a few weeks. Where, as here, a prisoner has been indicted and convicted along with another prisoner who appeals within the proper time, but the first does not give notice of application for leave to appeal or of appeal till the result of the other appeal is known to him, all the reasons for prompt appeal by a person convicted alone apply; but, in addition, delay by a person jointly convicted causes entirely unnecessary expense to the public. If in this case extension of time and leave to appeal were granted, counsel would again have to be briefed. Probably, counsel would have to be assigned for the appellant at the expense of local funds, whereas if the two appeals had come on together, one appearance of counsel for the Director of Public Prosecutions would have sufficed and one counsel would probably have been assigned for both appellants, although the actual case against them would not have been identical. It seems clear that the applicant in this case did not consider that he had any ground of appeal at all and never thought of appealing until he heard that the conviction of his fellow-prisoner had been quashed by this court. The mere fact that a fellow-prisoner's conviction has been quashed by the Court of Criminal Appeal is no ground for extending the time for appealing. Application dismissed. No counsel appeared.

[Reported by T. W. MORGAN, Barrister-at-Law.]

In Parliament.

House of Commons.

Questions.

HIGH COURT OF JUSTICE.

Mr. LEACH (Bradford, Central) asked the Attorney-General the number of cases issued in the High Court of Justice which could have been entered in the County Court during the year 1922; the number of these cases in which judgment was given; and the number of judgments in these cases in which costs on the County Court scale only were allowed?

The ATTORNEY-GENERAL: I regret that it is impossible to give the figures for which the hon. Member asks. More than 40,000 writs were issued in the High Court in the year 1922, and more than 29,000 judgments were signed. It would be necessary to go through the whole of these writs and judgments before any part of the question could be answered, and even then there would remain a number of cases of doubt as to whether the action could have been commenced in the County Court.

COUNTY COURT BAILIFFS.

Mr. LEACH (Bradford, Central) asked the Attorney-General if he is aware that the Government appoint and pay the wages of bailiffs employed in the County Courts of England and Wales; that one of the bailiffs' duties is to serve default summonses; that they perform this work efficiently with despatch, and at a minimum of costs; and will he, therefore, give instructions that solicitors shall not be allowed to serve default summonses or, if he is still of opinion that solicitors should be allowed to serve default summonses, will he order that they only be allowed the same fee as is allowed to a bailiff, namely, 1s. for each defendant to be served, this fee to be for service, affidavit of service, and filing?

The ATTORNEY-GENERAL: The bailiffs of the County Court are appointed not by the Government, but by the registrar or high bailiff, and are paid out of an allowance made to the registrar or high bailiff by the County Courts Department. They perform their work, I hope, with reasonable efficiency and despatch. The fee of 1s. charged under the County Court Fees Order in respect of the service of a default summons does not, taken by itself, cover the cost to the Department involved in the operation, but has been fixed, and must be considered in connection with the other fees charged for other operations connected with the same matter. As I informed the hon. Member on the 14th March last, the operation of serving a default summons when undertaken by a solicitor is not remunerative to him at the charges allowed on taxation. I see no reason for suggesting to the authorities any alteration in the present system.

DEBTORS ACT, 1869 (COMMITMENTS.)

Mr. LEACH (Bradford, Central) asked the Attorney-General the number of persons who were imprisoned for contempt of court for non-payment of debt during the year 1922, and the number of persons who served the whole term?

The ATTORNEY-GENERAL: I presume that the hon. Member's question refers to the number of persons committed under the Debtors Act, 1869?

Mr. LEACH: Yes.

The ATTORNEY-GENERAL: The number of persons so committed during the year 1922 was 1,015 and the number who served the full term was 753.

Mr. LEACH: Could not the right hon. and learned Gentleman take into consideration the desirability of abolishing altogether this form of imprisonment?

The ATTORNEY-GENERAL: No, Sir. I cannot undertake to do that. As the House knows, there cannot be a committal for non-payment of a judgment debt unless the Court is satisfied that the debtor has the means to pay and will not pay; then the committal is not for non-payment but for contempt of Court—for deliberately disobeying the order of the Court. The pressure of a judgment summons, too, is often a useful method of inducing recalcitrant debtors to pay a debt they quite well can pay.

(20th June.)

CROWN LANDS.

Mr. LOWTH (Ardwick) asked the Minister of Agriculture if he will inform the House of the acreage of land owned by the Crown, showing the acreage in each county of this country?

Sir R. SANDERS: As the reply includes a statistical statement, I propose, with the hon. Member's permission, to circulate it in the *Official Report*.

The following is the statement:

I presume the hon. Member refers solely to the Crown lands in the charge of the Commissioners of Woods. Excluding purely urban property, foreshore, and lands (other than those in the New and Dean Forests) subject to common rights, the approximate total area of Crown lands in Great Britain is 245,093 acres, made up as follows:

ENGLAND.

County.	Acreage.	County.	Acreage.
Bedford	333	Lancaster	1,511
Berks	14,741	Lincs	21,734
Bucks	493	London	2,023
Cambs	969	Norfolk	21
Chester	4,549	Northants	2,309
Devon	29	Notts	32
Dorset	239	Oxford	2,445
Durham	839	Surrey	4,586
Essex	3,476	Sussex	3,856
Gloucester	26,340	Wilts	9,038
Hants	72,872	Worcester	1
Hunts	288	Yorks	19,653
Kent	7,280		
		Total for England ...	199,657

WALES AND MONMOUTH.

County.	Acreage.	County.	Acreage.
Anglesey	1	Flint	12
Carmarthen	109	Merioneth	856
Carnarvon	486	Monmouth	5,055
Denbigh	161		
		Total for Wales ...	6,680

SCOTLAND.

County.	Acreage.	County	Acreage.
Argyll	12,683	Linlithgow	150
Caithness	25,578	Stirling	345
		Total for Scotland ...	38,756

RAILWAY FARES.

Mr. GILBERT (Southwark, Central) asked the Parliamentary Secretary to the Ministry of Transport whether the Rates Advisory Committee have decided on the form of schedule for passengers', workmen's, and season tickets at their recent inquiry; and, if so, if he will circulate to the House a copy of the form of the schedule for these passenger fares?

Colonel ASHLEY: The forms of schedule of the standard charges for conveyance of passengers at ordinary fares, season ticket rates and workmen's fares have been settled by the Railway Rates Tribunal, and the proceedings and judgments were published and placed on sale in the usual manner. Copies of the forms of schedule as settled in detail under Section 30 of the Railways Act may be obtained from the offices of the Rates Tribunal on payment of the usual fees, and in these circumstances I do not propose to circulate them, but I am sending the hon. Member, for his own information, a copy of the forms to which he refers, and am also having a copy placed in the Library.

(25th June.)

QUASHED CONVICTIONS.

Mr. TILLETT (Salford, North) asked the Attorney-General whether he is aware that when the police initiate a prosecution and secure the verdict, and when such verdict is upset on appeal and costs are awarded against the police, there is no provision under which compensation can be paid from public funds to the member of the public wrongly prosecuted; and will he consider the introduction of a Bill to amend the law in this respect?

The ATTORNEY-GENERAL (Sir Douglas Hogg): I do not consider that a Bill to provide compensation out of public funds to a person whose conviction has, for any reason, been quashed on appeal, would be in the public interest, and accordingly I do not propose to take any steps in the direction suggested.

IRISH FREE STATE.

DAMAGE TO PROPERTY (COMPENSATION) ACT.

Sir K. WOOD (Woolwich, West) asked the Under-Secretary of State for the Colonies what further steps are being taken in relation to ascertaining whether the Damage to Property (Compensation) Act, 1923, is within the constitutional rights and powers of the Irish Free State; and whether any appeal to the Privy Council in respect of this matter is contemplated?

Mr. ORMSBY-GORE: My Noble Friend is advised that there is no room for doubt that the Act referred to is within the powers conferred on the Parliament of the Irish Free State by the Irish Free State Constitution Act, and no further steps in the matter are therefore contemplated. Any person who contends that the Act is invalid, and that his rights are therefore unaffected by it, can challenge its validity by instituting proceedings in the appropriate Court.

Sir K. WOOD: Is my hon. Friend aware that this raises a very important constitutional question, as this is the first time Parliament has passed retrospective legislation affecting the status of the Dominions, and has he taken the advice of the Law Officers of the Crown?

Mr. ORMSBY-GORE: I realise that this is an important constitutional question, and my Noble Friend is replying to a question in another place the day after to-morrow. I have nothing to add to the reply I have given to-day. It is obviously a question which can only be determined by a Court of Law. My Noble Friend's advisers are absolutely certain they are right.

RESTORATION OF ORDER IN IRELAND ACT (REGULATIONS).

Captain W. BENN (Leith) asked the Prime Minister whether he has yet instituted an inquiry into the question of the Regulations made under the Restoration of Order in Ireland Act?

The PRIME MINISTER: Steps are being taken for the appointment of a Committee, but I regret I am not yet in a position to make a statement.

DEPORTATIONS TO IRELAND (COMPENSATION CLAIMS).

Captain BOWYER (Buckingham) asked the Home Secretary whether the tribunal to deal with claims for compensation under the Restoration of Order in Ireland (Indemnity) Act has yet been appointed; and, if so, who are the members?

Mr. BRIDGEMAN: The Lord Chief Justice has appointed a tribunal consisting of:—

The Right Hon. Lord Justice Atkin;
Sir William Francis Kyffin Taylor, K.B.E., K.C., one of the Judges of the War Compensation Court, and
Sir Hugh Fraser, a Bencher of the Inner Temple.

I understand that in pursuance of the Restoration of Order in Ireland (Indemnity) Act the Treasury have designated the Treasury Solicitor or, in Scotland, the Lord Advocate as the person against whom any claim for compensation under the Act should be made. (26th June.)

New Bill.

Criminal Law Amendment Bill—"to provide for the better protection of young children": Major Paget, on leave given. [Bill 170.] (20th June.)

Societies.

Law Society.

ANNUAL REPORT OF THE COUNCIL.

(*Continued from page* 665.)

Solicitors (Legal Education) Act, 1922.—In the last Annual Report a statement was included as to the form of the Bill which had been introduced with regard to Legal Education. It was stated, with regard to the revocation of exemptions from the Preliminary Examination, that provision had been made that those who should pass the then exempting Examinations within two years from the date of the Act should still be exempted, and, with regard to attendance at a School of Law, that the clause exempting from such attendance had been widened to meet special cases. At the last moment the clause in the Bill extending the old exemptions was altered so as to continue them for five years instead of two years. With regard to exemption from attendance at a School of Law, the Bill was amended so as to provide that such attendance should be compulsory only for clerks articled after the 31st December, 1922, who (not being specially exempted) should not have passed a final examination in law at a University, or who should not have been articled under the provisions of s. 4 of the Solicitors Act, 1860 (ten years' clerks). The extension of the original Preliminary Exemptions for five years and the exemption of ten years' men from attendance at a Law School resulted from representations made to the Attorney-General by the Solicitors' Managing Clerks' Association. There was also included in the Bill a provision that the Law Society should continue to conduct their examinations for entrance into the Profession as hitherto they have done independently of the School of Law and its professors. A full statement as to the Schools of Law which have been approved by the Council since the Act was passed or whose approval they are considering, and as to the regulations as to attendance which the Council have prepared, appear in the paragraph in this Report dealing with the Society's educational work. The passing of the Act, in so far as it compels Articled Clerks to submit themselves to a properly organised and recognised system of legal education, is an important event in the history of the Society, and is calculated greatly to benefit the whole Profession, and the public which it serves. With regard to exemptions from the Preliminary Examination, the Board of Education, after consulting the Law Society, have issued regulations setting out a new list of exempting Examinations. These are all of matriculation standard, with the result therefore, when the five years' term has expired, during which the old exemptions are maintained, that the standard of general knowledge required by Candidates for the Profession will be raised. The Council have made a general recommendation to the Profession that, in taking Articled Clerks who are not exempted from attendance at a Law School, the solicitor should covenant with the clerk that he will permit him facilities to attend during his term of articles at some recognised School of Law, and thus enable him to comply with the provisions of s. 2 of the Solicitors Act, 1922.

Landed Property Practitioners (Registration) Bill.—A Bill having the above title has been promoted by the Surveyors' Institution, the Auctioneers' and Estate Agents' Institute, and the Land Agents' Society. It is described as intended to provide for the registration of persons carrying out certain duties in connection with land or property. The Bill seeks to prohibit the use, except by those registered under it, of the designations of Land Agent, Estate Agent, Valuer, House Agent, or Auctioneer. The Bill is intended also to provide for the establishment of a register of all persons holding themselves out as capable of undertaking the valuation, sale, purchase, letting, taking on lease of land or buildings, or negotiating the same or the management of land or buildings, or the planning, laying out, or the development of land for building purposes, or the measurement and valuation of works in connection with the erection, repair and alteration of buildings. Certain penalties are sought to be prescribed against any unregistered person who does any of this work. The Council have given careful consideration to the Bill and have consulted the Provincial Law Societies with regard to it. As a result the Council have expressed the opinion that the Bill is unnecessary and undesirable in the public interest. They have urged upon the promoters the desirability of withdrawing it, and have intimated that if the Bill is pressed they will take steps to have it opposed in the House of Commons. A copy of the Report on the subject, which the Council have adopted, is printed in the Appendix.

Criminal Justice Bill.—This Bill has received careful consideration by the Council, and they have been in communication with, and have received suggestions with regard to it from, many of the Provincial Law Societies. In the main the Council approve the Bill, and have so informed the Lord Chancellor. On various matters of detail, however, the Council have made suggestions and prepared amendments. These suggestions and amendments have been forwarded to the Attorney-General with a request that either he himself will move them or will secure Government support to any which may be moved on behalf of the Society. One particular point to which reference might here be made arises upon clause 11 of the Bill, which gives certain powers to representatives of Corporations, although holding no legal qualification, to appear for such Corporations in criminal matters. The Council have urged that this power of representation should be strictly limited so as to prohibit the appearance of any unqualified person as an advocate for the Corporation.

Poor Persons Procedure.—Towards the end of the Long Vacation a letter was received from the Lord Chancellor's Secretary reporting a considerable congestion in Poor Persons' Divorce Cases owing to the fact that a sufficient number of solicitors was not forthcoming to render the necessary legal aid. The President thereupon issued a further personal appeal to the Profession for assistance, the response to which was stated to be adequate only to answer the requirements of the situation for a period of four or five months. The subject was referred to at the Special General Meeting of the Society, held in January, when a resolution was passed asking the Council to make a report on the whole subject and to submit the report to the Society before any further communication was made to the Lord Chancellor. Such a report has been prepared and is included in the Appendix, in which the Council admit that in view of the reluctance of solicitors to give the required assistance the failure of the existing arrangements before the end of the present legal year must be contemplated. The Council are of opinion that the work of the reporting solicitors might be dispensed with, and their first and most important recommendation is not merely that the trial of all divorce cases should be dealt with at all assize towns, but that the jurisdiction of the County Courts in the Provinces should be extended so that they may deal with the trial of all Poor Persons' Undefended cases. The Committee further recommend that Boards of Solicitors should be created to supervise the conduct of Poor Persons' Cases, and that a fund should be provided by the State out of which any out-of-pocket expenses incurred over and above the deposit of £5 now allowed should be paid, subject to the control

of the Board or of the Poor Persons' Department. The Council's Report was adopted by the Society at a Special General Meeting called for the purpose on 27th April, 1923, and a copy of it has been forwarded to the Lord Chancellor with a request that his Lordship will give its recommendations sympathetic consideration.

Civil Judicial Statistics.—During the past year a Departmental Committee appointed by the Lord Chancellor sat to consider the form in which Civil Judicial Statistics are published, and the Committee requested suggestions and observations amongst others from the General Council of the Bar and the Council of the Law Society. A Conference accordingly took place between representatives of those two bodies, as a result of which they agreed that the Statistics were too voluminous, and that summaries rather than details were only necessary. They expressed the view that as the business to which the Statistics refer is in the main under the control of the Lord Chancellor, it would tend to expedite their issue if they were prepared and tabulated in the Lord Chancellor's Department. These views were reported to the Departmental Committee, and a letter was subsequently received from the Lord Chancellor's Secretary thanking the Council for the trouble which they had taken, and stating that their views would be of great assistance to the Committee and to the Lord Chancellor when they came to consider the matter.

Official Referees' Court.—The General Council of the Bar having expressed the opinion that solicitors are not entitled to audience before Official Referees, the Council have requested their representatives on the Supreme Court Rule Committee to take steps towards securing a rule to permit such audience.

Irish Free State Solicitors. Suggested Concession on Admission in England.—Towards the close of the Long Vacation the Council considered certain suggestions which were made to them by the Southern Ireland Loyalists' Relief Association and the Officers' Association enquiring whether it might be possible for the Law Society to consider whether Irish ex-officers might be given the right to be admitted to the Roll of Solicitors in England without any period of apprenticeship or examination. A reply was made to the effect that the question of admission to the Roll of Solicitors in England is regulated by statute, and that the Law Society have no jurisdiction to grant Irish solicitors any special exemption. The Council stated, however, that in the event of legislation being proposed it would receive the Council's sympathetic consideration. A copy of a report on the subject, which has been adopted by the Council, is set out in the Appendix. By s. 3 of the Irish Free State Constitution Act, 1922, passed on the 5th December last, it was enacted that "If the Parliament of the Irish Free State make provision to that effect, any Act passed before the passing of this Act which applies to or may be applied to self-governing Dominions, whether alone or to such Dominions and other parts of His Majesty's Dominions, shall apply or may be applied to the Irish Free State in like manner as it applies or may be applied to self-governing Dominions." It follows that if the Parliament of Southern Ireland passed legislation applying the Colonial Solicitors Act, 1900, to the Free State, and providing that English solicitors are to be allowed admission in Ireland on terms as favourable as it may be desired that Southern Irish solicitors should be admitted in England, the Free State Government would be placed in a position to apply to the Privy Council for an order giving Southern Irish solicitors the benefit of the Colonial Solicitors Act. The Free State Parliament has passed an Act permitting English and Scottish solicitors of three years' standing to be admitted in Ireland without service or examination, and the Incorporated Law Society of Ireland have asked the Council to assist them in securing a Privy Council Order that Southern Irish solicitors shall be permitted admission in England and Scotland on similar terms. The Council consider that Southern Irish solicitors should be called upon to pass the Trust Accounts and Book-keeping and the Final Examinations, and have so informed the Irish Law Society.

Prosecutions at Assizes.—The Incorporated Justices' Clerks' Society passed and submitted to the Council the following resolutions: "That upon all prosecutions at Assizes adequate allowances should be made to the prosecuting solicitor, particularly in cases where travelling and hotel expenses are involved. The allowance should at least be equal to that made to professional witnesses. That where Assize towns are at a distance from the place of committal it is desirable that special arrangements should be made to avoid the detention of the witnesses and solicitors." The Council considered these resolutions, and replied that in their opinion the matters referred to could most conveniently be arranged between the various local Law Societies and individual Clerks of Assize, but that the Council would be prepared to consider the question further on hearing again from the Justices' Clerks' Society.

Circuit System.—In May, 1922, the Lord Chancellor appointed a Committee to consider what rearrangements of the Circuits of the Judges can be effected so as to promote economy and the greater despatch of the business of the High Court. The Committee sat under the Chairmanship of Mr. Justice Rigby Swift, and the President (Mr. A. Copson Peake) and Mr. R. C. Nesbitt, M.P., were members of it. The Committee have made the following recommendations: That the judicial business of the country should (subject to such modifications as may from time to time be necessary) be arranged and distributed according to the Divisions of Counties. That where a Petty Sessional District is nearer to an Assize Town in another county than to the Assize Town of the county in which the Petty Sessional District is situate, the Justices may send the case for trial to the nearer Assize Town. That the Lord Chief Justice may, with the assent of the Lord Chancellor, direct that Assizes shall not be held at any particular Assize Town or Towns. And that any legislation necessary to give effect to these recommendations should be passed. The Lord Chancellor has introduced legislation (Clause 1 of the Administration of Justice Bill, 1923) which, when passed, will carry out the Committee's recommendations as to dispensing with the holding of Assizes in places where they are unnecessary.

Divorce Division. Arrears in Interlocutory Business.—In the Easter Term of 1922 the Council were informed that considerable arrears existed in Interlocutory Business in Divorce Cases. These arrears necessarily resulted to some extent from the rapidity with which cases were being dealt with in Court. The Council made the suggestion to the President of the Probate and Admiralty Division that one method by which these interlocutory arrears might be dealt with and avoided in future would be by arranging that summonses should be heard at the Royal Courts of Justice instead of at Somerset House. This suggestion has been considered and will, it is hoped, be adopted. The Council feel sure that the change, if it is made, will be found acceptable to the Profession as tending very materially to the convenience of those who in the past have found it necessary to fit in their appointments in Divorce Cases at Somerset House with those in Chancery and King's Bench Chambers.

Execution of Trusts. Delegation by Power of Attorney.—A letter was received from the five principal City Banking Houses requesting the Council to recommend to the Legal Profession the insertion in Wills and Settlements of a clause enabling Trustees to appoint Attorneys and to act by such Attorneys, and expressing the opinion that such a clause would be found of practical utility. The Council expressed to the Bankers their thanks for directing their attention to the matter, and stated that in their opinion legislation would be required effectively to deal with the subject, and that if it were introduced it would receive their sympathetic consideration.

Finance (1909-10) *Act*, 1910. *Appeals to Referees under s.* 33.—A member of the Society complained that in several cases in which he had appealed to the Referees and succeeded in reducing Government valuations, his clients had had to pay their own costs of the appeal. The Council thereupon addressed a communication to the Chancellor of the Exchequer suggesting that when the claim of the Commissioners of Inland Revenue has been substantially reduced, the Referees should exercise their discretion as to costs by making an Order that those of the appellant be paid by the Commissioners. The Chancellor of the Exchequer replied stating that he had caused enquiry to be made by reference to the actual cases which has been the subject of Referees' awards in recent years, and could not regard these cases as giving support to the suggestion that taxpayers had been burdened with the costs of their appeals against the merits of their disputes with the Revenue. The Referees appeared to him to have exercised their discretion with regard to expenses impartially, and that he was not called upon to take such action as that which the Council had suggested.

Rent and Mortgage Interest Restriction.—Before the appointment of the Departmental Committee on the Restriction of Rent and Mortgage Interest, the Council requested the Lord Chancellor to do what he could to secure the appointment of a solicitor upon the Committee. At first such an appointment was not made, but eventually Sir Ernest Hiley, M.P., was appointed. The Council were invited to tender evidence, and they requested Sir Charles Morton to represent them. The Council, as members are aware, have consistently adopted the principle that the sooner normal conditions can be brought about the better. It is their belief that in this way, and in this way only, can the present situation be met. One of the main points in which the Council have specially interested themselves is the necessity of permitting Executors and Trustees to call in mortgages. The Council are of opinion that at the present time money can be readily borrowed on Trustee Securities at a reasonable rate of interest, and that therefore no reason whatever exists for refusing to allow Executors and Trustees who are anxious to wind up their trust estates to call in outstanding mortgages. The Council are glad to observe that the Rent and Mortgage Interest Restrictions Bill which the Government have just introduced contains a clause which will facilitate the calling in of trust estate mortgages.

Probate and Divorce Court Procedure.—The Council being of opinion that it is desirable that the practice in all the Civil Courts should, so far as possible, be the same, and that serious disadvantages have resulted from the diversity of practice which exists in the Probate and Divorce Courts as compared with that of the other Courts of Justice, have taken into consideration whether it would not be possible to assimilate the practice of the various Courts. As a result they have arrived at the conclusion that the rules of procedure in the Divorce Court and in the Probate Court in contentious matters should be revised, altered, and consolidated with this end in view, and so as to facilitate the trial of Divorce cases by the Judges of the King's Bench Division, and if thought desirable so as to consolidate the staff of the two Divisions; and with regard to contentious Probate Court Cases of assimilating the practice to that of the Chancery Division with similar results. The reasons which induced the Council to make these recommendations are set out in a report of the Legal Procedure Committee which has been adopted by the Council and is set out in the Appendix. This report has been submitted to the Lord Chancellor and to the President of the Probate and Admiralty Divorce Division. The Lord Chancellor has replied that he is in communication with the President of the Probate Division upon the subject.

Country Solicitors Attending Appeals in the House of Lords.—The Associated Provincial Law Societies having passed a resolution that, in view of the practice of the House of Lords taxing officer never to allow costs for the attendance of country solicitors at the hearing of appeals at the House of Lords, representations should be made to the Lord Chancellor

with a view to a rule being passed providing for the costs of such attendance being allowed on taxation in proper cases. The Council have taken this resolution into consideration, and being of opinion that there are cases in which it is reasonable that country solicitors should attend on appeals to the House of Lords with their London agents, have intimated their view to the Lord Chancellor's Secretary, and have requested him to do what may be necessary to have the costs of such attendances allowed in proper cases. A reply has been received that the present practice with reference to the allowance of the costs of the attendance of country solicitors is not, as suggested in the resolution, never to allow such costs, but to allow them in cases in which the attendance of the country solicitor could be shown to be necessary on the ground that he alone could provide information of a local character which would be required by the House on the hearing of the appeal. The costs of the attendance of the country solicitor is, therefore, at present allowed in exceptional cases. The Lord Chancellor does not think it would be right for him to disturb this practice or to give any direction which fettered further the discretion of the taxing officer, and wishes to point out that if the Associated Provincial Law Societies desire to press the point further, it is always open to a party to petition the House for a review of taxation in any particular case, and the general question might, therefore, in this way be brought before their lordships.

The Consolidation of the Judicature Acts.—In the last Annual Report reference was made to the desirability of consolidating the Common Law Procedure Acts and the Judicature Acts. It was stated that the Lord Chancellor had been urged by the Council to arrange for a Consolidation Bill to be drafted, and that it was believed that the subject was receiving his lordship's attention. The Council are glad now to observe that the necessary Bill has been introduced.

Proceedings under the Solicitors Acts.—The Council being of opinion that it is desirable that equal publicity should be given to the decisions of the Statutory Committee under the Solicitors Act, 1919, to suspend solicitors from practice or strike their names off the Roll (other than at their own request) as was given to the decisions of the Court under the Solicitors Act, 1888, arrangements have been made that notice of the dates when Orders are to be pronounced by the Committee shall be included in the Supreme Court Daily Cause List. By s. 7 (2) of the Solicitors Act, 1919, it is provided that the effect of any Order of the Committee whereby a solicitor is ordered to be struck off the Roll, or is suspended from practice, should be published in the *London Gazette*. This direction has been followed. The thirty-fourth Annual Report of the Committee constituted under the Solicitors Acts, 1888 and 1919, is printed in the Appendix, and a reference to this Report will show that on the application of the Society the names of nine solicitors were struck off the Roll (eight for indictable offences, and one for professional misconduct) by order of the Committee; that on the application of private individuals the name of one solicitor was struck off the Roll and three others were suspended from practising and ordered to pay costs; that three solicitors, where the Committee found that reasons existed to justify the applications, were ordered to pay the costs; and that in one case the Committee made no order as to costs. Convictions for offences under s. 12 of the Solicitors Act, 1874, and s. 44 of the Stamp Act, 1891, were obtained against twenty unqualified persons, and other cases have either been dismissed or withdrawn after enquiry and apology being given. Under the provisions of the Solicitors Act, 1906, the Council refused the applications of two undischarged bankrupts for the renewal of their practising certificates, but on appeal the Master of the Rolls directed the renewal of their certificates subject to approved security. As regards applications under s. 16 of the Solicitors Act, 1888, the Council refused to renew the certificates of three solicitors on the ground of bankruptcy or other circumstances, and in eight other cases, where applicants admitted having practised without being duly qualified, the certificate was issued on payment of the arrears of duty and in some cases a fine. Applications to be reinstated upon the Roll of Solicitors were made to the Master of the Rolls by two ex-solicitors who had been struck off the Roll for professional misconduct. The applications were strenuously opposed by the Council, but his lordship felt he ought to grant the applications in view of the circumstances, and accordingly made an Order in each case readmitting the applicants.

The Law Society.

PROVINCIAL MEETING.

The Council have accepted an invitation from the Incorporated Law Society of Plymouth, to hold the Provincial Meeting this year in Plymouth. It will accordingly be held in that city on Tuesday and Wednesday, the 2nd and 3rd October next, and the proceedings will, it is expected, be as follows:—

Monday, the 1st October.—Visitors will arrive in Plymouth, and the Mayor of Plymouth will give a reception at the Guildhall in the evening.

Tuesday, the 2nd October.—Members will meet at the Assembly Rooms, the Royal Hotel, at 10.30 a.m. The President of the Law Society will then deliver his address. This will be followed by the reading and discussion of papers contributed by members of the Society. The meeting will adjourn from 1.30 to 2.30 for luncheon, and will close at 4.30. In the evening there will be a banquet at the Guildhall, to be followed by music, and ladies will be invited to attend to hear the music. Tickets for the banquet (£1 1s. each, exclusive of wine) can be obtained from the Honorary Secretary of the Plymouth Law Society on or before the 5th September.

Wednesday, the 3rd October*.—The Meeting will be resumed at 11 a.m., when the reading and discussion of papers will be continued until 1.30, when the meeting will close. In the evening the President of the Plymouth Law Society (Mr. J. A. Pearce) will give a reception.

Thursday, the 4th October.—Excursions are being arranged to places of interest. Particulars will be given in the detailed programme.

Arrangements are being made for ladies and gentlemen attending the meeting to have free admission during the visit to several clubs, golf links and tennis courts in the neighbourhood.

Each member will be entitled to take a lady to the above entertainments and excursions (except the banquet).

The Secretary, Mr. E. R. Cook, will be obliged if any member proposing to attend the meeting will signify his intention, on or before the 15th August, to Mr. B. Hamilton Whiteford, the Honorary Secretary of the Plymouth Law Society, whose address is 17, Courtenay-street, Plymouth, stating whether he will be accompanied by a lady. The Hon. Secretary will then send him further particulars and, if required, information as to hotel and other accommodation already arranged for.

The Council will be glad to receive communications from members willing to read papers at the meeting.

Any member who contemplates favouring the Council with a paper should let Mr. Cook know the subject of it on or before the 20th July. The Council will then consider the subjects proposed, and select such as they consider are the most suitable for discussion at the meeting, and will intimate their opinion to members in time to enable them to prepare their papers.

Those members whose papers are not among those selected may, nevertheless, prepare and submit them, and they will be read and discussed should the time at the disposal of the meeting suffice.

Subject to the control of the President of the Law Society, each member attending the meeting will be at liberty to speak and vote upon any matter under discussion, but all resolutions expressive of the opinions of the meeting will be framed in the form of recommendations or requests to the Council to take the subjects of such resolutions into their consideration.

The hotel accommodation in Plymouth is in request. Early notice therefore will be necessary if rooms are desired, but arrangements have already been concluded for accommodation at the Royal Hotel and The Duke of Cornwall Hotel for a limited number, whose applications will be dealt with in order of receipt. The Hon. Secretary of the Plymouth Law Society will endeavour to meet the wishes of intending visitors on intimation.

* The Annual General Meeting of the Solicitors' Benevolent Association will be held at the Assembly Rooms, The Royal Hotel, on Wednesday, 3rd October, at 10.15 A.M.

The Supreme Court of the United States.

The following address was delivered in the Hall of Gray's Inn, on Monday, 25th June, by Hon. James M. Beck, Solicitor-General of the United States and Honorary Bencher of Gray's Inn. It is the first of two addresses. The second will be delivered next Monday, 2nd July.

In this and succeeding addresses I have the high privilege of explaining to you something of the Supreme Court of the United States. It is a great theme, and I address myself to it with the consciousness that I cannot "rise to the height of the great argument." Your desire that I should do so indicates that in one respect you, of Gray's Inn, do not follow our master spirit, Francis Bacon, for he believed in "leaving the care, *i.e.*, study, of foreign states to foreign states," as he said he would "not be *curiosus in aliena respublica*." But then my *respublica* is institutionally of the same kin as your Empire. Indeed, "a little more of kin and less than kind," for are we not both "children, brave and free, of the great mother tongue"?

Possibly no institution of my nation is of greater interest to the lawyers of other nations than this unique tribunal. When I was invited last summer to deliver an address to the French bench and bar in the *Cour de Cassation*, I asked them what subject they wished me to treat, and they at once replied: "The Supreme Court of the United States." Experience has taught me that your interest in this great achievement of our common race is no less than that of our brethren of the French bar. The subject is so great, and could be treated in so many ways, that—

> "Like a man to double business bound,
> I stand in pause where I shall first begin."

The Home of the Supreme Court.

Imagine yourselves in the noble Capitol of the American Republic. Passing through the great rotunda—not unworthy of Michael Angelo—you would turn from the corridor into a semi-circular room with a colonnade of doric pillars and vaulted roof, and thus find yourself in one of the simplest and yet one of the most impressive court-rooms in the world. It was once the Senate Chamber of the United States, and within its walls were once heard the eloquent voices of some of the greatest orators and statesmen that America ever gave to posterity. In the formative period of the Republic's growth, when it was uncertain whether the new nation would be a mere league of States or a powerfully consolidated nation, these doric pillars were mute auditors to the great political discussions in which Daniel

Webster, Henry Clay, John C. Calhoun, and many others, whose names would be less familiar to you, participated. Now for half a century the "tumult and the shouting" of political strife have died away, and there remains the calm and serene atmosphere of a court of justice, whose judgments and mandates control the destinies of a vast empire upon which, as upon the British Empire, the sun never sets. The Esquimaux, living in the long night of the Arctic winter in the farthest verge of Alaska, to the Moro savages of the Philippines, near the gateway of China, are alike subject to the decrees of this court.

If you happened to be in this court-room on a Monday between the 1st of October and the middle of June, you would hear, precisely at the hour of noon, the announcement of the crier: "The Honorable, the Chief Justice, and the Justices of the Supreme Court of the United States." Preceded by the Marshal, or High Sheriff, of the United States, and headed by the Chief Justice, the members of the court, robed in black, enter the court-room and stand as the crier opens the court by saying:

> "*Oyez, oyez*, all persons having business before the Honorable the Supreme Court of the United States are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and the Honorable Court."

The Appointment of the Judges.

The Constitution secures for all time the independence of each of these Justices, for they hold, to quote the Constitution, "their offices during good behaviour, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office." Each of them has been appointed after a careful scrutiny and with a meticulous care that may not exist in equal measure in any other judicial system in the world. The President nominates the prospective Justice, but his appointment being "with the advice and consent of the Senate" must have the approval of a majority of that body, which, on terms of equality peculiarly represents the forty-eight constituent States. While such advice and consent is in practice often perfunctory in the case of many other executive appointments, yet this is not true of nominations to the Supreme Court. When the President is considering a possible nomination, the fact is generally given to the public by an inspired intimation from the White House. At once the fierce light of publicity is turned upon the prospective nominee. His past as a lawyer and public man is subjected to the severest scrutiny. Public opinion will not tolerate that anyone who has not won distinction at the bar or on the bench, and who has not as a public man become generally known throughout the United States, shall be considered. When the nominaton is made, the Committee on the Judiciary of the Senate makes a more careful examination than in the case of any other public official, and if there be any charge, affecting either his character or ability, the Committee carefully inquires into its truth or falsity. Upon the report of this Committee, the full Senate, in executive and therefore secret session, reconsiders the matter, and only when a majority of that body gives its approval can the President issue the commission. As a result the Justices of the Supreme Court have been, with few exceptions, lawyers of distinction and public men of general reputation. The reason for this meticulous care is not only because of the grave nature of the duties and the potential political power of a Justice of the Supreme Court, but because he holds his office for life and can never be removed except by impeachment for high crimes and misdemeanors. Only once since the Court was constituted in 1790 was a Justice impeached and the charges preferred against him were more political than personal. He may voluntarily retire upon reaching the age of seventy years with full pay, but he cannot be compelled to retire. As he is generally one who has known the dust of the arena in public life, it may be said of him that—

> "After life's [political] fitful fever he sleeps well,"

(as he frequently does on the Bench), for—

> "Treason has done his worst;
> Nor steel, nor poison, malice domestic, foreign levy,
> Nothing can touch him further."

Ordinarily, but not always, the President nominates one of his own political party, but it is not regarded as a party appointment, and, with few exceptions, men have forgotten their political affiliations, and even their social tendencies, when they merged their identity into the Bench. Ardent believers in States rights have become the most ardent nationalists, social radicals have become conservatives, and even occasionally conservatives in social problems have become advanced radicals. The almost unbroken prestige of the court has thus been due to the fact that it has not only been regarded, but, in effect, has proved itself to be above the clamor of political strife.

The Reading of "Opinions."

On Mondays, as distinguished from other weekdays, the court begins its sessions by reading its opinions. Commencing with the junior Justice, each of the nine members thereupon proceed to read "by direction of the court" its opinion and judgment in some case. For the most part, these cases have been argued many weeks before and have been the subject of careful, and at times heated, discussion in the consultation room. When discussion is ended, a vote is secretly taken, beginning with the junior Justice and ending with the Chief Justice. If the court is unanimous, one of the nine Justices is assigned to write the opinion. If the court is divided, and the minority wish to present their views in a dissenting opinion, the selection of the Justices to write the majority and minority opinions respectively is agreed on as between themselves. These opinions find a permanent record in official reports, which at the present time number 200 volumes and possibly aggregate 25,000 opinions.

Upon the completion of the opinions, the court first entertains motions for admission to the bar, and as there are in America over 100,000 lawyers it is not surprising that the bar of the Supreme Court of the United States is now estimated to number about 30,000. Of these a great number never had a case in this court, and only a very few have had many. The court then proceeds to the call of the day calendar and the argument of cases. As the court each annual term has over 1,000 cases on its calendar, some limitation of oral argument is obviously necessary, especially as in my country, as possibly in yours, oral arguments are sometimes more voluble than valuable. Each counsel is limited to one hour in which to present his case. In exceptional cases this time is extended, but in recent years only a few cases have been permitted more than the four hours during which the court sits each day.

The Filing of "Briefs."

The inability to argue many great and important cases with which the calendar abounds in so short a time is to some extent compensated by the filing of printed arguments which we call briefs. The court very rarely decides any case upon the conclusion of the oral argument, for, as its rules require the submission of briefs, respect for counsel requires that such briefs be considered before the court reaches a conclusion. The printed data thus submitted to the court consist in the first place of the record, which comprises all proceedings in the courts below as printed under the direction of the clerk of the court, and then the briefs for the appellants and appellees, respectively, which briefs under the rules must contain (1) a concise statement of the case, (2) a specification of the errors relied upon, and (3) "a brief of the argument, exhibiting a clear statement of the points of law or fact to be discussed, with a reference to the pages of the record and the authorities relied upon in support of each point." I regret to add that our briefs are brief only in name.

You will be amazed to know the quantity of the printed matter which the court is thus theoretically obliged to read. No precise calculation has ever been made, but it is a conservative estimate to say that in the course of the annual term, from October to June, the court receives at least 100,000 pages of matter, and on the basis of 200 working days each term this would mean theoretically that each Justice would be obliged to read each day 500 pages. Practically, much of the record does not require reading, and is only useful as accessible information; and as the briefs are sub-divided into separate propositions and carefully indexed, it is easy for an experienced court, after getting the first impressions on the oral argument (for in the Supreme Court oral arguments generally only result in first impressions), to turn to the portions of the brief which seem to him to discuss the controlling questions in the case.

From October to June they listen to oral arguments for four hours on five days of the week, at other times of their long working day examine and study records and briefs aggregating many thousands of printed pages, discuss between themselves the controversial questions, and after each judge has written the opinion assigned to him, these are, in turn, examined by each Justice to see that it truly reflects the common judgment. All this is indeed a labour of Hercules, and it is amazing that more members of the court do not break down from the strain of such continuous labour.

The Jurisdiction of the Court.

The work of the court is as great in quality as it is in quantity, for it is possible that there is no court in the world, with the possible exception of the Judicial Committee of the Privy Council, which is called upon to consider so many complex and important questions.

In several respects its jurisdiction is broader and its work more difficult than the Privy Council. It has both original and appellate jurisdiction. Original jurisdiction only arises in cases "affecting ambassadors, other public ministers and consuls, and those in which a state shall be party." Under these clauses of the Constitution the sovereign States implead each other or are sued by the United States in cases which are often of immense importance. Each term there are twenty-five or thirty cases in which sovereign States and the federal government are the litigants, and in this way questions of boundaries and disputes as to riparian rights in inter-state rivers, and as to injuries inflicted upon the people of one State by the people of another—as, for example, from the noxious fumes of smelting plants located near a State boundary—are tried as in a court of first and last instance. In all other cases the jurisdiction of the Supreme Court is purely appellate; but its work in this respect may be divided into three classes: First, the ordinary appellate jurisdiction in private controversies between different citizens; secondly, cases in which the court enforces in favour of the individual and as against the Government, whether State or national, the great limitations of the Constitution; thirdly, the determination in litigated cases of the respective rights of the States and of the nation by the continuous interpretation of a written Constitution and its necessary adaptation to the ever-changing conditions of a highly complex civilization.

As to the first class of cases, the jurisdiction of the court is more limited than is generally supposed. There are in America many thousands of courts, and, as I have said, over 100,000 lawyers. The volume of litigation is enormous and, even if the Constitution permitted, it is quite obvious that every case decided in the courts of the United States, State and Federal, cannot be removed to the Supreme Court. As to litigation in State tribunals, the only cases that can reach the Supreme Court are those which involve some clause of the Constitution or some right or authority exercised thereunder, and the highest State tribunal has negatived the existence of such alleged federal right. Even this limited right of appeal gives rise

to a great volume of very important and even more difficult litigation. Thus, the Constitution provides that no State can deny to any citizen "due process of law" or deny "the equal protection" of the laws. These are broad terms and are equivalent to "the law of the land" of Magna Charta.

What is "due process of law" and what is the "equal protection of the laws": are questions which, in the highest degree, involve the fundamental principles of free government, and therefore any case in the State courts, in which the contention can fairly be raised that the State laws have violated this provision, can be removed by appeal to the Supreme Court.

The Federal Government has its own federal tribunals throughout the United States. They are the District Courts, located in the Judicial Districts of the United States, and intermediate courts of appeals, called the Circuit Court of Appeals, located in the nine circuits in which the United States is divided. It would tax your patience unnecessarily to describe the circumstances under which cases can be taken, in some cases, directly from the United States District Courts to the Supreme Court, or indirectly through the Circuit Court of Appeals. As the federal courts have jurisdiction not only in cases arising under the Constitution and laws of the United States, but also in all cases brought between citizens of different States, these courts have an immense volume of litigation, and, in most cases, an appeal cannot be taken beyond the Circuit Court of Appeals. The cases in which an appeal is of right to the Supreme Court from inferior federal courts are limited in number, but the court can, as of grace, grant a certiorari to bring up any case from a lower federal court that it believes to be of general importance or in which a decision is necessary to reconcile conflicting judgments of different courts of appeals.

It is the second and third functions above referred to that give to the Supreme Court its unique character and extraordinary interest. In the American conception of government there is no such thing as absolute sovereignty. The powers of government, especially those vested in the Federal Government by the Constitution, are limited, and beyond those limits the Government may not impose its will upon the individual. Thus, a single individual has rights, such as freedom of conscience, which he can assert against a nation of 100,000,000 of people, and, if the executive department of the Government infringes those rights or Congress passes a law in violation of them, the citizen can assert such right in the courts and the Supreme Court may thus protect, by judicial process, an individual from arbitrary power.

The Influence of the Court on the Constitution.

The third function, however, is even more important and unique. It is concerned with something more than throwing the circle of the law about the individual to protect him in the exercise of some guaranteed right as an individual. This function concerns the development of the structural form of government as applied to all citizens. Primarily the Constitution of the United States is not a code of law, but a charter of government. It seeks to distribute powers between two classes of government—one, the constituent States, and the other the Federal Government. This distribution of power was made in very general terms. As Chief Justice Marshall pointed out, the powers granted in the Constitution to the Federated nation and to the constituent States respectively, were merely "enumerated" and not "defined." In defining them, by application in the practical administration of government, considerable adaptation is necessary to the changing circumstances of the most progressive age in history. Thus, the Supreme Court becomes in the truest sense of the word not only a court of justice, but in a qualified sense a continuous constitutional convention. It continues the work of the Convention of 1787 by ever writing and re-writing the great charter of government, and thus its duties become political, in the highest sense of that word, as well as judicial.

Such, in broad outlines, is the nature and jurisdiction of this unique court, which has almost continuously sat for 133 years. Even the great Civil War, which raged for four years, no more disturbed its calm deliberations than did the World War interrupt the sessions of the Academy in preparing a monumental French dictionary.

The Origin of the Court.

What is the historical origin of this court, which has challenged the attention and gained the admiration of the world for over a century? We can follow the spirit of the immortal Treasurer of this Inn, for one of Bacon's favourite maxims was, "*Felix qui potuit rerum cognoscere causas.*"

Like all great human institutions, the Supreme Court was more of an evolution than an invention, and the roots of its origin are to be found in the past, and especially in the common law.

Our western civilization for more than two thousand years has had a more or less vague conception of a higher law which would control the ordinary law of the State. The Roman law had always recognized a distinction between the *jus naturale* and the *jus civile*, and out of this vague philosophical distinction grew the conception of equity. Probably the dominance of the Church in the first millennium after the birth of Christ, with the superior power of the Papacy to control kings and sovereign States, contributed to this conception, for as Professor Maitland has well noted:—

> "In the last of the Middle Ages and thence onward into the Eighteenth Century we hear the judges claiming some vague right of disregarding statutes which are directly at variance with the common law, or the law of God, or a royal prerogative."

He cites an instance in the reign of Richard II where the Chief Justice was hanged as a traitor for advising a king that a statute was void.

There was clear recognition in the thirteenth century that while positive law was the creature of the sovereign, yet that their enactments when in violation of the natural law were void. In *Tregor's Case*, 1334, Herle, J., said:—

> "Some statutes are made against law and right, which when those who made them perceived them they would not put them in execution."

In the same century the judges decided against a statute of Westminster "because it would be against common right and reason."

It remained for Chief Justice Coke to give to these vague speculations a more direct judicial sanction in *Dr. Bonham's Case*. It may be true, as Chief Justice Holt afterwards said, that in this vigorous assertion of the right of the judiciary to disregard an Act of Parliament that—

> "Coke was transported that the doctor was a member of the university and of his university (as one may see by his excursions in praise of it), which he looked upon as frustrated by that prosecution."

I quite appreciate that Coke's famous dictum was never seriously accepted in this country as a principle of constitutional law, but the fact remains that his vehement refusal to accept a statute which he regarded as against common right and reason had a pronounced influence in the American colonies. This was naturally due to the peculiar circumstances of colonial development, which tended to develop in the minds of the American lawyers a sub-conscious conception that there was no such thing as unqualified sovereignty. As I attempted to explain in the first of my lectures on the Constitution last summer in this Hall, the sense of constitutional morality was powerfully developed in the colonies by their system of charter government. It is true that these charters were in their origin little more than commercial grants, but it inculcated a habit of mind to determine whether a given act of the home government was in accordance with the provisions of the charter.

These questions were determined in the first instance in the colonial courts, and thence lay an appeal to the King in Council; and thus was slowly developed the idea that the powers of government could be determined in the courts. Thus also was slowly developed the conception of a dual sovereignty, which was to culminate in the unique dual sovereignty of the American federal system. The colonial lawyers by slow but progressive stages reached the conclusion, which was to become at a later time the cornerstone of your great Empire, that while within the sphere of the Empire the power of Parliament was unlimited, yet that in the internal concerns of the colonies the local legislatures had powers which the Parliament should not override.

This distinction was at the root of the constitutional struggle which culminated in the formation of the American Republic. The colonial lawyers, even those of Whig sympathies, never questioned the power of Parliament to impose taxes upon the American people when they were designed as regulations of trade. England's world-wide trade was regarded as a matter of imperial concern, and even though taxes were imposed upon colonial imports or exports to divert trade to other colonies, it was felt that such a power belonged to Parliament or to the Crown. When, however, taxes were laid by Parliament upon the American colonists to defray the internal expenses of such colonists, the Whig lawyers in the colonies believed that such a tax was *ultra vires*. This, in substance, was a challenge to the absolute sovereignty of the home government and to the omnipotence of Parliament, and thus was an assertion of a new conception of qualified sovereignty.

When the colonists in 1781 adopted their first charter of government (the so-called Articles of Confederation), they gave to Congress not only legislative and executive powers, but also the judicial power to decide—

> "all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction or any other cause whatever."

Before the Constitutional Convention of 1787 had met, new influences were influencing the founders of the new State. Many of them were students of Montesquieu, and none of his doctrines had made a deeper impression than that which suggested, as an ultimate truth, that the union of legislative, executive and judicial powers in any one man or body of men could only mean tyranny and that the safety of the State lay in a separation of these three powers. The framers of the Constitution were students of government and history, and therefore they must have followed with great interest the long struggle in France which had culminated in a *coup d'état* a short time before the Philadelphia Constitutional Convention met. The highest court of France was known as the Parlement, from which your Parliament derives its name. Originally a mere *curia regis*, which had during the reign of Louis XIII developed into an independent magistracy not dissimilar to the English Inns of Courts, before the middle of the fourteenth century the judges of the Parlement were not merely the advisers of the King, but independent judges *de jure* as well as *de facto*, and early in the fifteenth century the King did not disdain to appear before the Parlement as plaintiff or defendant in cases concerning the Crown.

This Parlement had slowly developed the power to nullify a law when it deemed it unjust or even unwise. Ordinarily, all legislation originated with the King and his Council, but their edicts had no efficacy until "registered" by the Judiciary. If the Judiciary refused to register, the King could hold a *lit de justice*, by which he either attended the courts or summoned the judges in his presence, heard their remonstrances against the proposed law, and then either withdrew it or directed them to register it. Frequently the judges again refused to do so, and thereupon a conflict arose, the weapon of the King being to imprison the judges and that of the judges to declare a boycott by suspending the work of the courts. As

someone has said, the Parlement "was weak under a strong king and strong under a weak king"; but the fact remains that from the time of Louis XIV until the French Revolution the history of France was marked by a continuous battle, with varying fortunes, between the arbitrary power of the King and the judicial power of the Parlement.

Thus, in the reign of Francis I, when the Concordat with the Pope repealed the pragmatic sanction of Charles VII, the Parlement refused for two years to register the Concordat. Again, in 1590, Henry II attempted to legalise the inquisition as a political institution in France, and again the Judiciary refused to recognize the law.

At the very time that Cromwell and his Roundheads were rebelling against the Stuarts, a similar civil war was being waged in France, called the "War of the Fronde," due to an attempt by Mazarin to throw the leading judges into prison.

The struggle became acute in the reign of Louis XV. Madame du Barry had, in her apartment, a portrait of Charles I of England, and frequently called it to the attention of her royal lover, by saying: "Louis, thy Parlement will cut off your head, too."

In 1771 Louis XV attempted to throw all the judges into prison; and in 1787, when the Founders of the American Republic were framing its Constitution, the King again attempted to compel the judges to register two edicts which provided for a stamp duty and a land tax. To escape arrest the judges attempted to sit continuously in session, believing that if actually on the bench their immunity would be respected; but after being in session for thirty-six hours the King's soldiers broke into the *Palais de Justice* and carried the entire court into custody. These startling events, offending the maxim of de Montesquieu, must have had a pronounced influence upon the framers of the Constitution.

As no similar judicial power existed in the Mother Country, notwithstanding Coke's famous blast in the *Bonham Case*, they probably turned their attention to the French Parlement as a model.

With the political sagacity of our common race, they recognized that however meritorious the struggle of the Parlement was against executive tyranny, yet that it unwisely offended Montesquieu's doctrine by assuming not only judicial but essentially legislative powers, for the Parlement claimed the power to invalidate a law by refusing to register not because it was *ultra vires*, but because it was unwise.

Notwithstanding this, some of the ablest men in the Philadelphia Convention were apparently willing to accept the French model in its entirety. It was therefore proposed that the President and the Supreme Court should constitute a "council of revision," with power to nullify any Act of Congress or of a State legislature which they deemed unauthorized or even inexpedient. Voted down on 6th June, 1787, attempt was again made on 21st July to incorporate such a council of revision into the Constitution, and this time this dangerous proposition was voted down by a bare majority of the vote of one State. Not content with this double defeat, Madison, sometimes called the Father of the Constitution, together with Wilson, the ablest lawyer in the body, and others again renewed the motion and again it was defeated.

The Separation of Judicial Power.

The framers of the Constitution thereupon wisely separated legislative from judicial power. Recognizing the possibility of improvident legislation, the Constitution provided as a substitute for the French Parlement that the President could veto any Act of Congress with the proviso that it could nevertheless become a law if repassed by a vote of two-thirds of each House of Congress. Having thus provided for an additional curb on legislative errors, the Constitution thereupon proceeded to create a Federal judiciary and to limit its functions to purely judicial duties. The Constitution provides that—

> "The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

It defines their jurisdiction by providing that—

> "The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting Ambassadors, other public Ministers and Consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a Party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects."

This, however, is not the full definition of the power, for the Constitution also contains the great affirmation so essential in a dual form of government—

> "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

The Overriding Power of the Court.

Reading these provisions together, the great function of the Supreme Court, as the balance wheel of the Constitution, is not a mere implication, as some jurists have supposed, but is a direct and conscious creation by express and unmistakable language. The power of the court to set at naught any law of a State or of the Federal Congress or to invalidate any act of any public official that is in violation of the provisions of the Constitution was clearly recognized in the debates of the Convention. Indeed, prior to the Convention, in isolated instances, colonial courts, following Chief Justice Coke's famous dictum, had nullified the Acts of colonial legislatures as unconstitutional, but the power thus affirmed as a dictum by Coke (but then denied any practical existence in the Mother Country) was to become the cornerstone of the American political system; and later this indestructible stone was to become in the federal system of your great Empire the very "head of the corner."

A judiciary thus created was to be the final conscience of the nation with respect to the powers of government, and such it has continued to be with unbroken success to this day.

This great power to curb legislatures and executives, and therefore majorities, by resort to the paramount will of a written Constitution, has been exerted for over 130 years, and while not infrequently the party whose power is thus curbed has vented its wrath and disappointment upon the Supreme Court, yet after the thunder of political debate has passed and the earthquake of party passion has spent its force, the "still small voice" of the Supreme Court has always prevailed. Each time the will of the majority is nullified, because inconsistent with the fundamental law, threats are made, as are now being made, to destroy this power of the Supreme Court, or at least to impair it by requiring the concurrence of seven out of the nine Justices before a statute can be nullified, but I believe that the American people, notwithstanding past demonstrations of dissatisfaction, have a higher regard for the Supreme Court than for any other institution of our Government, with the possible exception of the Presidency.

It is certain that without the Supreme Court the American Republic, with its great heterogeneous democracy, would have perished long since. As Burke well said:

> "The restraints of men as well as their liberties are to be reckoned among their rights."

and the most effective restraint which freemen have ever imposed upon themselves is this extraordinary power of the Supreme Court. As William Wirt, formerly an Attorney-General of the United States, and one of the greatest advocates who ever argued in the Supreme Court, said nearly a century ago:

> "If the judiciary be struck from the system, what is there of any value that will remain, for government cannot subsist without it. It would be as rational to talk of a solar system without a sun";

and a later Federal jurist, the late Justice Brown, on his retirement from the Bench of the Supreme Court, said a few years ago:

> "The antagonisms, sometimes almost fierce, which were developed during the earliest decades of its history and at one time threatened to impair its usefulness, are happily forgotten, and the now universal acquiescence in its decisions, though sometimes reached by a bare majority of its members, is a magnificent tribute to that respect for the law in the Anglo-Saxon race and contains in itself the strongest assurance of the stability of our institutions."

To which I am fain to add, by way of conclusion, that the moral power of the Supreme Court, which has neither sword nor purse to enforce its edicts, is the highest example of which I know, of the great ideal of the Anglo-Saxon race, "a government of laws and not of men."

To this great end, this court has administered justice for over a century. No scandal has ever sullied its fair fame and against its mandates there has never been any lasting protest. Its laws were not silent even during the fratricidal strife of a tragic civil war.

The Administration of the Criminal Law.

The following is a further extract from the paper on "Some Aspects of Criminal Law and Practice," which was read by Sir Archibald Bodkin, Director of Public Prosecutions, at the Annual Meeting of the Chief Constables' Association (Cities and Boroughs of England and Wales), at Birmingham on 31st May and 1st June. We printed some extracts, *ante*, p. 644. They are from the Police Review of 8th June, where the paper is printed in full.

Right of Search.

The next point to which attention may be drawn is the right of search of the house or premises of the accused at the time of or shortly after his arrest. It is as difficult to lay down any general guiding rule, as it is to find direct authority to justify the very common and useful police practice of searching a man's dwelling I find it laid down in express terms that Police may on arrest take away from a prisoner any articles, documents, &c., which may be available as evidence of the offence charged against him, and I believe that the law would justify a search at his house or premises in his occupation, and the seizure and detention of property found there, if it was the property or part of it in respect of which the charge is made, or was relevant thereto, or is property or belongings throwing light upon his conduct and recent actions. The practice at least is based upon common-sense principles, and in these days, when criminals very frequently work together, if an arrest is not promptly followed by a search, the accused's associates or others might well dispose of the most obvious evidences of guilt. Take, for instance, coinage cases, forgery of currency notes, or banknotes, or stamps, or larceny. I am referring, it will be understood, to the common law, for by Statutes search warrants may be issued in many cases whether a person is in custody

or not It is difficult to find distinct authority, however, for the practice to which I have alluded, and it has been left mainly to a very great judge in Ireland, the late Chief Baron Palles, to throw light upon this question.

In a case heard in 1887, in wh'ch persons were arrested on a charge of conspiracy and misdemeanour, a quantity of documents, books, papers, banknotes, were seized at the same time as the warrant of arrest was executed. The question was raised as to whether such seizure was legally justified. It was argued that it did not exist in regard to felonies, and, *a fortiori*, did not therefore exist in regard to misdemeanours. In reference to the former, the learned Chief Baron soon disposed of the argument by referring to the common practice of long standing, that articles used in or immediately connected with a felony were commonly and properly seized as evidences of guilt. But upon a resort to this practice in cases of misdemeanour general principles had to be relied upon rather than direct authority. The ground on which the decision proceeded, which was to the effect that the search and seizure in the particular case were justified, was, as the Chief Baron said, "that their purpose and object being to produce the goods in evidence in a judicial proceeding, the right to seize them must be derived from the interest which the State has in a person guilty, or believed to be guilty, of a crime being brought to justice, and in a prosecution once commenced being determined in due course of law.

"The interest of the State in the person being brought to trial in due course necessarily extends as well to the preservation of material evidence of his guilt or innocence as to his custody for the purposes of trial. His custody is of no value if the law is powerless to prevent the abstraction or destruction of this evidence, without which a trial would be no more than an empty form; but if there be a right to production or preservation of this evidence, I cannot see how it can be enforced otherwise than by capture." The learned judge further stated that "as the right to take these papers existed, I think it clear that in some states of circumstances there must be an ancillary right to take them by force, using no unnecessary violence."

Seizure of "Other Goods."

There are other cases, one, for instance, in which a search warrant for stolen goods having been issued, the officer in executing it took away other articles than those stolen, and an action was brought against him. It was said in that case, "If those other articles had been likely to furnish evidence of the identity of the stolen articles there might have been reasonable ground for seizing them, although not within the terms of the warrant." And in another case, where a forgery on a bank had been perpetrated by two people, one of whom was arrested at his father's house by the Police in the presence of the bank manager, the Police, after taking the prisoner to the Police Station, returned, and, notwithstanding the protest of the father, searched the house (to use the phrase in the report) "from top to bottom," without warrant, for evidence of the son's guilt. Unfortunately, the case is not well reported, and I do not find it stated whether anything was found which was afterwards produced at the trial when the prisoner was convicted, but an action being brought by the father against the bank manager for procuring the search, the Lord Chief Justice, in 1893, who tried the case, described the "action" instituted by the father as a "most utterly discreditable one," and so the jury thought who tried it. There is, therefore, so much authority for searching the place where the arrest is effected, but I think that the principle also applies to justify a search if the accused is arrested away from his house or dwelling, so long as that search promptly follows upon the arrest.

By numerous Statutes search warrants are authorised to be granted by Justices—usually if not always upon sworn information. In some cases these warrants may be issued under the direct authority of a Chief Officer of Police—for instance, the Official Secrets Act, 1911, where circumstances requiring urgent action have arisen. The law, however, is not, in my opinion, in a completely satisfactory condition in respect to warrants of this class; it is unsystematic; in some cases such warrants may be obtained; in others they may not be obtained—a result, I presume, of the reluctance which is felt in authorising Police to enter what may be called a man's "private house," or, in these days of high rents, his castle.

So far as stolen goods are concerned, not much improvement is to be suggested. The combined operation of s. 103 of the Larceny Act, 1861, the Prevention of Crimes Act, 1871, ss. 15 and 16, and s. 42 of the Larceny Act, 1916, which latter only recognises the right of Chief Officers of Police to issue authority to search in cases where the premises to be searched are tainted by the actual or previous occupation of receivers and other convicted persons, is fairly effective—especially when taken in connection with the common law power of search of arrested persons and their premises, which we have seen has received judicial sanction, and, indeed, is the common daily practice. But there are other instances in which power to issue search warrants is very limited. For instance, the Offences Against the Person Act, 1861, only recognises search warrants where a search is desired for gunpowder or explosives (and similar powers similarly limited appear in the Malicious Damage Act, 1861). But why not a search warrant, for instance, for poison, when it is suspected that it is being used for injury to a human being?

Obscene Publications.

Again, the Obscene Publications Act, 1857, is to my mind strangely limited in its scope, for under that Act it is necessary to give proof on oath not only that indecent and obscene books, etc., are being kept for purposes of sale, etc., but that there has actually been at, or in connection with the premises proposed to be searched, a sale or publication of the indecent matter. Therefore the result is that before a search warrant can be obtained sworn proof must be given to the justice asked to issue it that an actual criminal offence has been committed in connection with the premises. Why is there this limitation of a most necessary step towards suppressing this widely-spread and pernicious and disgusting trade and traffic? Efforts to control this traffic, as insidious and as destructive of virility as the trade in dangerous drugs, are being made by general agreement amongst civilised European nations, and an effort also is being made in the Bill I referred to before to show that this country is alive to the demoralisation caused by obscene and filthy books, pictures, etc., by amending the Act of 1857.

Value of Search Warrants.

The keynote to all applications for search warrants is the existence of "reasonable suspicion," which implies bona fides in those concerned in applying for them. The modern case decided in 1897 of *Jones* v. *German* shows (after doubts and conflicting dicta in earlier times) that it is not necessary to swear that the goods to be searched for have, in fact, been stolen; it is sufficient if the information discloses a suspicion—and a reasonable suspicion—that they have been stolen. The value of a search warrant as a means of detecting crime is evidenced by the very numerous cases in which it is authorised in the Statute law, and in these days when justices are usually readily available it is well, I think, to resort to a search warrant rather than to overstrain the powers of search which the common law gives as ancillary to summary arrests for felony or by warrant for misdemeanour. Search warrants, if tactfully executed, do not involve any undue reflection on the occupier of the premises searched. No harm is done nor damage inflicted, and if only on a *bonâ fide* information on oath a justice is satisfied that due cause for search exists, I should like to see the power of issuing search warrants much extended.

A search warrant is really a warrant to search for evidence of a crime which is believed to have been committed, and things seized thereunder become the material tendered in proof when an offender is charged. It is, I think, worth considering whether, where process is issued in the form of a warrant of arrest, a justice should not also be empowered to issue a warrant to search for evidence of the crime. This would tend to place on a more satisfactory footing the practice of searching and seizing "evidence" which we have seen exists. Some such powers do now exist, but only in a very limited class of case. See the Gaming Act, 1845, and Betting Act, 1874.

From *The Times* of 26th inst.: The right of the Parish of St. Dunstan to perambulate and assess a part of the old buildings, in Lincoln's Inn, was yesterday established in the Court of Exchequer.

Bankers' Unsuccessful Claim.

In the Mayor's and City of London Court on 14th inst., says *The Times*, Judge Shewell Cooper delivered a considered judgment in a case in which Messrs. King & Co., bankers, of Cornhill, made a claim against Mr. W. S Bryan, formerly a captain in the Army, of Antrim-mansions, Belsize Park, for £16 16s. 3d., the balance of an overdraft.

Mr. H. W. M. Potter, for the plaintiffs, said on 19th May last year the defendant, when in Bombay gave the plaintiffs, with whom he banked, instructions to remit £300 to Sir Charles R. McGrigor & Co., bankers, in London. That money was remitted, but owing to a mistake made by one of the plaintiffs' clerks £40 too much was sent. The defendant had been asked to return the money. He had paid £26, which he had received from McGrigors, but declined to pay the rest until further dividends were paid under McGrigors's bankruptcy.

The defendant said he asked the plaintiffs' clerk in Bombay to send the balance of his account to Sir Charles McGrigor & Co. He did not ask for any specific amount to be sent, as he did not know what amount was standing to his credit. The clerk drew the documents, and the witness sailed for England the same day. McGrigors closed their doors on 18th October. It was not his fault that the plaintiffs sent McGrigors too much. He had paid them 12s. 6d. in the pound dividends which he had received, and was willing to hand them any other dividends that came to hand. The plaintiffs should have cabled to McGrigors telling them of the mistake, and asking them to rectify it.

Mr. Potter said that would be contrary to all banking usage. It was impossible to alter a draft without the defendant's directions.

Judge Shewell Cooper said he did not think it was competent for the plaintiffs to insist on the defendant arranging with McGrigor & Co. to have the matter adjusted. The plaintiffs ought to have approached McGrigors as principals in the transaction, and, although doubtless McGrigors would have declined to repay the plaintiffs without the instructions or the consent of the defendant, he was unable to hold that that affected the matter. He must find for the defendant, with costs.

Memorial to the late Lord Halsbury.

Lord Birkenhead on Saturday last, says *The Times*, formally opened the Lord Halsbury memorial in connection with the Inns of Court Mission. The memorial takes the form of a playing field about eight acres in extent at Bridport-road, Edmonton, a few minutes' walk from Silver-street Station, on the Great Eastern Railway.

Lord Sterndale, Master of the Rolls, who is chairman of the council of the mission, read a letter from Lord Cave, the Lord Chancellor, in which he said it was a great disappointment to him that illness prevented him from taking part in the ceremony. He had always had the greatest admiration for Lord Halsbury's character, his strong common sense, and his instinctive love of justice. He also felt that the form of the memorial, which would encourage manly sports, would have been in accordance with his wishes. Those present would be glad to hear, added Lord Sterndale, that Lord Cave was well enough to sign that letter with his own hand.

The Inns of Court Mission, said Lord Sterndale, had taken a new lease of life in making a new departure a few years ago. The Drury-lane district had changed of recent years, but in the opinion of those who had to do with it, the mission was too good a thing to let drop. All young men and women, and perhaps old men and women, needed some form of recreation, but playing fields in the neighbourhood of London were difficult to get. It was felt that something of the kind was needed to complete the mission, and that it would be a suitable means of commemorating the career of Lord Halsbury. It was not merely a memorial from the Bench and Bar, because among its contributors were members of both Houses of Parliament, some of whom were his opponents in politics. For the pavilion on the field they were indebted to Baron Profumo.

Lord Birkenhead, declaring the field open, said that Lord Halsbury died at the age of 98. It was amazing to think that all through the immensity of the changes, material, political, and legal, he must have seen, he retained that freshness and originality of mind and sympathy of youth which were so marked in his younger days. He was perhaps one of the greatest masters of English Common Law that had sat on the Woolsack for very many years. He was, as the Master of the Rolls had said, the complete embodiment of judicial common sense, and he united with an equipment of that kind a passionate and fearless devotion to justice for its own sake. Those who used the playing field would, he trusted, play their games in the same spirit as Lord Halsbury played the high game of life—with courage and resource—and so play them that, had it been given to Lord Halsbury to watch them, he would have said: "They are playing the game, and they are playing it on the lines of high character and sustained endeavour."

Speaking on behalf of his mother, Lady Halsbury, and of the family, Lord Halsbury said they felt proud of the memorial which had been raised to his father.

Among those present were:—

Lady Halsbury, Baron and Baroness Profumo, Lord Justice and Lady Bankes, Lady Roche, the Hon. Dorothy Pickford, Mrs. Smalley-Baker, the Master of the Temple, Mr. A. R. Kennedy, K.C., and the Rev. W. G. Bristow, Warden of the Mission.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 3%. Next London Stock Exchange Settlement, Thursday, 12th July.

	Middle Price. 27th June.	Interest Yield. £ s. d.
English Government Securities.		
Consols 2½%	59	4 4 6
War Loan 5% 1929-47	101-⅞	4 19 0
War Loan 4½% 1925-45	98⅜	4 11 6
War Loan 4% (Tax free) 1929-42	100⅞	3 19 0
War Loan 3½% 1st March 1928	96⅛	3 12 6
Funding 4% Loan 1960-90	92½	4 6 6
Victory 4% Bonds (available at par for Estate Duty)	93⅛	4 5 6
Conversion 3½% Loan 1961 or after	80¼	4 7 0
Local Loans 3% 1912 or after	68	4 8 6
India 5½% 15th January 1932	102xd.	5 7 6
India 4½% 1950-55	91½	4 18 6
India 3½%	70½	4 19 0
India 3%	60½	4 19 0
Colonial Securities.		
British E. Africa 6% 1946-56	114½	5 5 0
Jamaica 4½% 1941-71	101	4 9 0
New South Wales 5% 1932-42	102⅜	4 17 6
New South Wales 4½% 1935-45	95xd.	4 15 0
Queensland 4½% 1920-25	98	4 12 0
S. Australia 3½% 1926-36	86xd.	4 1 6
Victoria 5% 1932-42	101¾	4 18 0
New Zealand 4% 1929	95½	4 4 0
Canada 3% 1938	81½	3 14 0
Cape of Good Hope 3½% 1929-49	81½xd.	4 5 6
Corporation Stocks.		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	56¼	4 8 0
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	68	4 8 0
Birmingham 3% on or after 1947 at option of Corpn.	67½xd.	4 9 0
Bristol 3½% 1925-65	78xd.	4 9 0
Cardiff 3½% 1935	88xd.	3 19 6
Glasgow 2½% 1925-40	74	3 8 0
Liverpool 3½% on or after 1942 at option of Corpn.	79xd.	4 8 6
Manchester 3% on or after 1941	68	4 8 0
Newcastle 3½% irredeemable	75xd.	4 13 0
Nottingham 3% irredeemable	68¼	4 8 0
Plymouth 3% 1920-60	70	4 4 6
Middlesex C.C. 3½% 1927-47	80	4 7 6
English Railway Prior Charges.		
Gt. Western Rly. 4% Debenture	89	4 10 0
Gt. Western Rly. 5% Rent Charges	109	4 12 0
Gt. Western Rly. 5% Preference	106	4 14 0
L. North Eastern Rly. 4% Debenture	88⅜	4 10 6
L. North Eastern Rly. 4% Guaranteed	87	4 12 0
L. North Eastern Rly. 4% 1st Preference	84	4 15 0
L. Mid. & Scot. Rly. 4% Debenture	89	4 10 0
L. Mid. & Scot. Rly. 4% Guaranteed	86½	4 12 6
L. Mid. & Scot. Rly. 4% Preference	84	4 15 0
Southern Railway 4% Debenture	87xd.	4 12 0
Southern Railway 5% Guaranteed	107	4 13 6
Southern Railway 5% Preference	104	4 16 0

The Times correspondent at Washington, in a message of the 22nd inst., says:—President Harding, speaking in St. Louis last night, declared himself unequivocally in favour of the World Court, and despite previous strong local opposition, his advocacy was enthusiastically received. He proposed certain material changes designed further to divorce the Court from the League of Nations, notably:—(1) A provision that the Court be either self-perpetuating, electing jurists to fill its own vacancies or to continue by the nomination of judges by The Hague Court, to be confirmed by Judges of the World Court. (2) The financial direction of the Court to be transferred from the League to the Court or to a Commission chosen by member nations. (3) The privilege of appealing to the Court to be granted to all nations instead of being confined to members of the League. He declared that the United States were unalterably opposed to joining the League, but they were morally obliged to promote peace by espousing the Court.

Irish Free State Income Tax.

Non-Residents' Exemption.

The Revenue Commissioners of the Irish Free State have issued a statement drawing the attention of persons not resident, or not ordinarily resident, in the Irish Free State, to the following announcement:—

"For the year 1923-24, beginning April 6, 1923, Irish Free State income-tax will normally be deductible from dividends or interest on stocks, shares, bonds, &c., of any Government, company, &c. outside the Irish Free State (including British Government securities), where payment of the dividends or interest is made by or obtained through a bank, paying agent or other person in the Irish Free State. Exemption from Irish Free State income-tax in respect of such dividends or interest is, however, allowable where the owner of the stocks, &c., is not resident in the Irish Free State, or in the case of British Government securities which were issued with the condition as to exemption from tax mentioned in section 46 of the Income-tax Act, 1918, where the beneficial owner of the securities is not ordinarily resident in the Irish Free State; and payment of the dividends or interest without deduction of Irish Free State income-tax may be obtained by persons entitled to such exemption by the completion of declarations on the appropriate forms. No deduction of tax will be made from interest on holdings of Five per Cent. War Loan, Five per Cent. National War Bonds, Four per Cent. War Loan (tax compounded), and Four per Cent. National War Bonds (tax compounded), registered or inscribed in the books of the Bank of Ireland in Dublin, and such interest will be charged by direct assessment on owners who are liable to Irish Free State income-tax. Further information and declaration forms may be obtained from the Inspector of Foreign Dividends, Revenue Offices, The Castle, Dublin."

Obituary.

Mr. Sam Bircham.

With reference to Mr. Sam Bircham, whose death we recorded recently, "E.F.T." writes to *The Times* (14th June):—

As an intimate friend for more than forty years of Mr. Sam Bircham, who died recently at the age of 84, I should like to pay a little tribute to his memory, which is held in deep regard by a large circle of friends. Educated at Eton and Oxford, he afterwards occupied for many years a leading position in the solicitors' branch of his profession, as a member of the firm of Bircham & Co., though his personal work in later years was confined to the solicitorship of the London and South Western Railway Company, a position held before him by his father, Mr. F. T. Bircham, who was the first solicitor of that company. Sam Bircham was also a valued member of the board of the old Law Life Office from the year 1884 until it was swallowed up by the Phœnix Assurance Company in 1910, and with characteristic zeal and energy he supported many good objects, notably the St. John's Foundation School, Leatherhead, of which he was chairman for many years.

But it is not his professional or business career, or even his association with particular charitable institutions, that mainly fills the minds of his many friends, and indeed his professional life came to an end with honoured retirement twelve or thirteen years ago. Rather will they recall his lovable character, his bright and sunny nature, his tenderness of heart, and his countless acts of kindness to others. He was never happier than when his aid was sought in composing differences, and I recall several occasions on which he played the part of peacemaker with the happiest results. He preserved also, almost to the last, a wonderful vitality and unflagging interest in passing events, and on the lighter side of life he was always an enthusiastic lover of sport, and in particular of cricket. He gave a most remarkable proof of this by going out to Australia in 1920, when he was upwards of 80 years of age, for the express purpose of "seeing some cricket," and he repeated the exploit in 1922, though in the latter case he also had the unselfish object of settling a young relative in life. He was for many years, and down to the time of his death, one of the honorary auditors of the Marylebone Cricket Club, and light as were the duties of that office, he was proud of it because of its association with the fountain head of the game that he loved and followed whenever and wherever he could seize a chance of doing so. He was a Norfolk man by long descent and a Justice of the Peace for that county, in which he had many interests, and where in his later years he spent a substantial part of his time at his house in Reepham, and became, as indeed he did wherever he might be, a centre of many useful and benevolent activities; but he had also still closer family and personal links with the county of Surrey, and ended his days at his Surrey home.

His very sociable nature was for years exhibited at its best as the honorary secretary of an old legal dining club, from which position he retired only a few years ago. In the height of the war, and at a time of private sorrow, he addressed to his fellow-members a very touching New Year's message, of which the head-note fitly describes his own high aims through life:—"Watch ye—stand fast in the faith. Quit you like men—be strong." The whole tenor of the message showed him in the light of a man who "did justice, loved mercy, and walked humbly with his God," and that was the light that shone upon him in the eyes of those who knew him best.

Legal News.

Appointments.

Mr. John Lort-Williams, K.C., M.P., has been appointed to be Recorder of West Bromwich in place of Mr. Reginald Plumptre, who has resigned.

Mr. S. Leader, of Messrs. Leader, Plunkett & Leader, has been appointed Commissioner of the Supreme Court of the Gold Coast Colony, to act in the United Kingdom, and also in the Kingdoms of Belgium and Holland.

Dissolutions.

Arthur Robert Chamberlayne, Alfred Hacking, D.S.O., M.C., Charles Keene, Solicitors and Parliamentary Agents, 83, Pall Mall, London, S.W.1. 25th day of March, 1923. Arthur Robert Chamberlayne and Charles Keene will continue to practise at 83, Pall Mall, under the style of Chamberlayne, Keene & Co.

Montague Ellis, Hugh Vaughan Peirs, George Coode Daw, Hugh John Chevallier Peirs, Cecil Montague Jacomb Ellis, Solicitors, 17, Albemarle-street, London, W.1 (Ellis, Peirs & Company). 1st day of May 1923. On the retirement from business of Hugh Vaughan Peirs. Such business will be carried on in the future by Montague Ellis, George Coode Daw, Hugh John Chevallier Peirs and Cecil Montague Jacomb Ellis, under the firm name of Ellis, Peirs & Company.

General.

The seven Danish delegates—county court judges, magistrates, and officials—who have come to London to study English criminal procedure and administration, attended the morning and afternoon sittings at Bow-street Police Court on Tuesday, and were accommodated with seats on the Bench. They were also present at the short sitting of the Children's Court at St. Anne's Vestry Hall, Dean-street, Soho. Mr. Graham Campbell was the presiding magistrate at both courts.

At the Central Criminal Court on Tuesday a woman prisoner applied to the Recorder for legal aid under the Poor Prisoners' Defence Act. The Recorder asked why she had not got a solicitor. She replied that she had one at the police court and paid him five guineas, but she had not got any money now. The Recorder said he very strongly disapproved of a solicitor taking the money of a client and then leaving the client to be defended at the trial at the expense of the country. He should request the attendance of the solicitor to give an explanation.

Mr. G. R. Barclay, of 24, Kirkstall-road, Streatham-hill, S.W.2, writing to *The Times* (15th inst.) says:—*The Times* recently reported the number of street accidents in London for the first quarter of this year. One hundred and forty-nine persons were killed, and there were about 10,000 accidents due to mechanically-propelled vehicles. No fuss is ever made about these accidents, which are probably due to reckless driving or want of caution by the victims. In contrast with this, it would be interesting to know how many people lost their lives through the use of opium or its derivatives in the same period—possibly one or two, though I am not aware of any. Yet the Dangerous Drugs Act has been passed, carrying the most ferocious penalties against duly qualified chemists, wholesale or retail, for the contravention of any regulation or failure to comply with the conditions of their licence.

Following the example of other noblemen, Lord Novar, Secretary for Scotland, has registered a company for the administration of his estates, with a capital of £50,000 in £1 shares. The principal subscribers are Lord and Lady Novar. The objects of the company, according to the articles of association, are to develop the estates, particularly for building purposes and cultivation; to acquire freshwater fisheries of all descriptions; to undertake schemes of afforestation; and to carry on business as manufacturers, builders, contractors, dealers in stone, miners and quarry owners.

The June Session of the Central Criminal Court was opened at the Sessions House, Old Bailey, on Tuesday, by the Lord Mayor, who was accompanied by the Recorder (Sir Ernest Wild, K.C.), Alderman Sir Louis Newton, Mr. Sheriff J. E. K. Studd, Mr. Sheriff S. H. M. Killik, and Mr. Under-Sheriff T. H. Deighton. Sir Colin Rees Davies, Chief Justice of Bermuda, and Sir Leo Cussen, Senior Puisne Judge of Victoria, occupied seats on the Bench at the right hand of the Recorder. In his address to the Grand Jury, before dealing with the calendar, which contains the names of sixty-four persons, the Recorder congratulated the Lord Mayor on his recovery from his illness, and referred to the presence of the visitors on the Bench. He remarked that their visit was expecially interesting as in one colony the Grand Jury had been practically abolished and in the other it still remained. The visitors would be able to see how Grand Juries did their work in that court—the greatest criminal court in the Empire.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday July 2	Mr. Bloxam	Mr. Synge	Mr Hicks Beach	Mr. Bloxam
Tuesday 3	Hicks Beach	Ritchie	Bloxam	Hicks Beach
Wednesday .. 4	Jolly	Bloxam	Hicks Beach	Bloxam
Thursday..... 5	More	Hicks Beach	Bloxam	Hicks Beach
Friday 6	Synge	Jolly	Hicks Beach	Bloxam
Saturday 7	Ritchie	More	Bloxam	Hicks Beach

Date.	Mr. Justice Sargant.	Mr. Justice Russell.	Mr. Justice Astbury.	Mr. Justice P. O. Lawrence.
Monday July 2	Mr. Jolly	Mr. More	Mr. Synge	Mr. Ritchie
Tuesday 3	More	Jolly	Ritchie	Synge
Wednesday .. 4	Jolly	More	Synge	Ritchie
Thursday 5	More	Jolly	Ritchie	Synge
Friday 6	Jolly	More	Synge	Ritchie
Saturday 7	More	Jolly	Ritchie	Synge

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

CREDITORS MUST SEND IN THEIR CLAIMS TO THE LIQUIDATOR AS NAMED ON OR BEFORE THE DATE MENTIONED.

London Gazette.—FRIDAY, June 22.

THE UNICORN BREWERY CO. LTD. July 17. Isaac L. Esser, 30, Museum-st., Ipswich.

A. & F. HALL LTD. July 8. George W. Spencer, 10, Bush-la., E.C.4.

THEATRE-DE-LUXE (BRADFORD) LTD. July 30. Henry Swarbrick, 11, Cheapside, Bradford.

J. B. SAUNDERS & CO. LTD. Aug. 3. George Leech, 11, Dacre-st., Westminster, S.W.

ANGLO-CONTINENTAL OIL CO. LTD. Aug. 4. Vincent C. Bianchi, 34, Nicholas-la., E.C.

DOLGOATH MINE LTD. July 23. Sir W. H. Peat, K.B.E., 3, Chapel-st., Camborne.

IRONFOUNDERS' (BRADFORD) BRANCH SOCIAL CLUB AND INSTITUTE. July 9. Elverie Haggas, 68, Great Horton-rd., Bradford.

Resolutions for Winding-up Voluntarily.

London Gazette.—TUESDAY, June 19.

Simkins & Hadley Ltd.
Brinksway Pictorium Ltd.
J. R. Irons Ltd.
C. H. Cudemore & Co. Ltd.
Guildhall Investment Property & Advance Co. Ltd.
Orisal Ltd.
Liverpool Fruit Shippers' and Importers Association Ltd.
Leslie Brownlie & Co. Ltd.
Amalgamated Traders Ltd.
Charles Rawson & Co. Ltd.
The West Hull Coaling Co. Ltd.
The Southend Citadel Co. Ltd.
Harry Levene Ltd.
G. R. Scott Ltd.
Brevard Sales Co. Ltd.
H. J. Oakley Jones & Co. Ltd.
Tangkah Rubber Estate Ltd.
Willmot & Allison Ltd.
T. L. Bentley Ltd.
Templar Educational Stationery Co. Ltd.
The Summerfield Manufacturing Co. (Kirkham) Ltd.
John Ridgwell Ltd.
Littlehampton Motor Co. Ltd.
The Nuneaton Electrical Contracting Co. Ltd.
Silk & Goodman Ltd.
Southport & District Utility Poultry Association Ltd.
Hadley & Bendall Ltd.
The Sheet Metal Plating Co. Ltd.
Kerr-Stanley & Co. Ltd.
C. I. P. Company Ltd.
Caerwys Co-operative Dairies Ltd.

London Gazette.—FRIDAY June 22.

Gillies Ltd.
Lancashire Concrete Block and Construction Co. Ltd.
Exeter Motor Cycle & Light Car Co. Ltd., Exeter
Minerals Exploitation Ltd.
Theatre-de-Luxe (Bradford) Ltd.
Pearson's Patents Ltd.
Esperanza Ltd.
Volos Manufacture Ltd.
Gerald Reed & Co. Ltd.
T. V. Motors Ltd.
Burrup Mathieson & Sprague Ltd.
Stolerman Bros. Ltd.
Beardmore Aero Engine Ltd.
R. Smalley & Co. Ltd.
Holl-Block Printing and Manufacturing Co. Ltd.
Volos Manufacture Ltd.
The Popular Catering Association Ltd.
W. MacArtney Ltd.
Lavarello Brizzolesi Galliano and Co. Ltd.
The Olympic Picture Palace (Bradford) Ltd.
O. & W. Ormerod Ltd.
Britons Ltd.
Colonial Property & Rubber Co. Ltd.
A. M. Johnson & Co. Ltd.
Marine & General Engineering Co. Ltd.
Palais de Danse & Cinema (Edinburgh) Ltd.
Islay Kerr & Co. Ltd.
Improved Cigarette Machine Feeder Co. Ltd.
Richards, Budd & Co. Ltd.

Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, June 22.

BARBER, EDGAR, and WILSON, HAROLD, Salford, Manufacturing Upholsterers. Great Grimsby. Pet. June 20. Ord. June 20.

BARKER, ALFRED, BARKER, WILFRED, BARKER, EUSTACE FRANK, and BARKER, EDWIN, Middlesbrough, Boilermakers. Middlesbrough. Pet. June 18. Ord. June 18.

BERNSTEIN, HANNAH, Merthyr Tydfil, Hardware Dealer, Merthyr Tydfil. Pet. June 6. Ord. June 19.

BOLAM, HUMPHREY G., West Deeping, Lincoln, Tractor Proprietor. Peterborough. Pet. June 5. Ord. June 19.

BUCKLEY, ARTHUR, Rochdale, Coal Merchant. Rochdale. Pet. June 18. Ord. June 18.

CARRODUS, THOMAS, Manchester. Manchester. Pet. May 15. Ord. June 20.

CARSON, The Honourable W. H. L., Wyndham-st., N.W. High Court. Pet. May 25. Ord. June 19.

CHILDS, WILLIAM, Alvaston, Derby, Wine Merchant. Derby. Pet. June 20. Ord. June 20.

COSHAM, WILLIAM, Mawdesley, near Ormskirk, Basket Manufacturer. Liverpool. Pet. June 20. Ord. June 20.

COCK, R. BUCHANAN, Dorking, Antique Dealer. Croydon. Pet. Dec. 15. Ord. June 19.

COLGRAVE, WALTER H., Tiptree, Essex, Builder. Chelmsford. Pet. June 19. Ord. June 19.

CUNNINGHAM, FRANCIS, Manchester, Coal Merchant. Manchester. Pet. June 19. Ord. June 19.

DANIELS, FRED, Birkenhead, Joiner. Birkenhead. Pet May 30. Ord. June 18.

DAVIES, JAMES, Tylorstown, Glam., Collier. Pontypridd. Pet. June 19. Ord. June 19.

DOUGHTY, FRANCIS P., Sheffield, Coal Dealer. Sheffield. Pet. June 16. Ord. June 16.

EVISON, WILLIAM H., Sheffield, Grocer. Sheffield. Pet. June 18. Ord. June 18.

FINSBERG, GEORGE M. M., Hatton-garden, Salesman. High Court. Pet. June 19. Ord. June 19.

FREEMAN, ERNEST W., Great Grimsby, Photographer. Great Grimsby. Pet. June 20. Ord. June 20.

GRAY, FRED, Halifax, Merchant. Halifax. Pet. June 18. Ord. June 18.

GRIFFITHS, AMY R. Bristol, School Teacher. Bristol. Pet. June 20. Ord. June 20.

HADDON, PERCY, Taunton, Farmer. Exeter. Pet. June 1. Ord. June 18.

HANN, SYDNEY G. P., Cardiff, Grocer. Cardiff. Pet. June 19. Ord. June 19.

HERMER, ABRAHAM, Cardiff, General Dealer. Cardiff. Pet. June 5. Ord. June 19.

HICKS, WILLIAM R., Tywardreath. Truro. Pet. June 19. Ord. June 19.

HIGSON, BERNARD C., Manchester, Motor Accessories Agent. Manchester. Pet. May 12. Ord. June 18.

HULLEY, W. & Co., Manchester, Merchants. Manchester. Pet. May 28. Ord. June 20.

JOHNSON, CHARLES F., Leeds, Millinery Warehouseman's Manager. Leeds. Pet. June 19. Ord. June 19.

LANDON-WHITE, GUY, Titchfield, Fruit and Poultry Farmer. Portsmouth. Pet. June 19. Ord. June 19.

MARTIN, ALFRED J., Bedworth, Warwick, Clothier. Coventry. Pet. June 20. Ord. June 20.

MARTINEZ, ANDREW, Cardiff, Ship Store Merchant. Cardiff. Pet. June 19. Ord. June 19.

PRENDIVILLE, GERALD J. A., Liverpool, Tug Owner. Liverpool. Pet. May 30. Ord. June 20.

REED, HARRY V., Sherborne, Poultry Breeder. Yeovil. Pet. June 20. Ord. June 20.

SAMUELS, SAMUEL, Liverpool, Costumier. Liverpool. Pet. May 3. Ord. June 18.

SMITH, ARTHUR H., and GRIFFITHS, ALBERT T., Liverpool, Shipping Agents. Liverpool. Pet. June 20. Ord. June 20.

SMITH, GEORGE W., Goole, Cycle Dealer. Wakefield. Pet. June 19. Ord. June 19.

WHITAKER, JOHN T., Nelson, Cloth Manufacturer, Burnley. Pet. June 5. Ord. June 19.

WHITHAM, LOT, Halifax. Halifax. Pet. June 18. Ord. June 18.

WILLIAMS, ERNEST A., Chester, Painter. Chester. Pet. June 20. Ord. June 20.

WOOD, ARCHIBALD H., Camborne, Estate Agent. Truro. Pet. June 18. Ord. June 18.

WOOD, JIM, Liversedge, Yorks., Coal Merchant. Dewsbury. Pet. June 18. Ord. June 18.